



# ENVIRONMENTAL ASSESSMENT BOARD

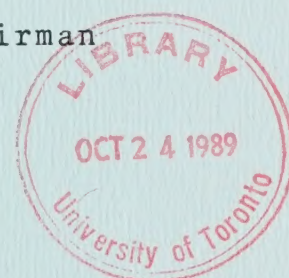
VOLUME: 146

DATE: Wednesday, October 11th, 1989

BEFORE: M.I. JEFFERY, Q.C., Chairman

E. MARTEL, Member

A. KOVEN, Member



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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER OF a Notice by the  
Honourable Jim Bradley, Minister of the  
Environment, requiring the Environmental  
Assessment Board to hold a hearing with  
respect to a Class Environmental  
Assessment (No. NR-AA-30) of an  
undertaking by the Ministry of Natural  
Resources for the activity of timber  
management on Crown Lands in Ontario.

-----  
Hearing held at the Ramada Prince Arthur  
Hotel, 17 North Cumberland St., Thunder  
Bay, Ontario, on Wednesday, October 11th,  
1989, commencing at 8:30 a.m.

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VOLUME 146

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member







A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	
MS. C. BLASTORAH )	MINISTRY OF NATURAL
MS. K. MURPHY )	RESOURCES
MS. Y. HERSCHER )	
MR. B. CAMPBELL )	
MS. J. SEABORN )	MINISTRY OF ENVIRONMENT
MS. B. HARVIE )	
MR. R. TUER, Q.C.)	ONTARIO FOREST INDUSTRY
MR. R. COSMAN )	ASSOCIATION and ONTARIO
MS. E. CRONK )	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY )	ASSOCIATION
MR. H. TURKSTRA	ENVIRONMENTAL ASSESSMENT
	BOARD
MR. E. HANNA )	ONTARIO FEDERATION OF
DR. T. QUINNEY )	ANGLERS & HUNTERS
MR. D. HUNTER )	NISHNAWBE-ASKI NATION
MS. N. KLEER )	and WINDIGO TRIBAL COUNCIL
MR. J.F. CASTRILLI)	
MS. M. SWENARCHUK )	FORESTS FOR TOMORROW
MR. R. LINDGREN )	
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MR. R. BARNES )	ASSOCIATION
MR. R. EDWARDS )	NORTHERN ONTARIO TOURIST
MR. B. McKERCHER)	OUTFITTERS ASSOCIATION





APPEARANCES: (Cont'd)

MR. L. GREENSPOON)	NORTHWATCH
MS. B. LLOYD )	
MR. J.W. ERICKSON, Q.C.)	RED LAKE-EAR FALLS JOINT
MR. B. BABCOCK )	MUNICIPAL COMMITTEE
MR. D. SCOTT )	NORTHWESTERN ONTARIO
MR. J.S. TAYLOR)	ASSOCIATED CHAMBERS OF COMMERCE
MR. J.W. HARBELL)	GREAT LAKES FOREST
MR. S.M. MAKUCH )	
MR. J. EBBS	ONTARIO PROFESSIONAL FORESTERS ASSOCIATION
MR. D. KING	VENTURE TOURISM ASSOCIATION OF ONTARIO
MR. D. COLBORNE )	GRAND COUNCIL TREATY #3
MS. S.V. BAIR-MUIRHEAD )	
MR. R. REILLY	ONTARIO METIS & ABORIGINAL ASSOCIATION
MR. H. GRAHAM	CANADIAN INSTITUTE OF FORESTRY (CENTRAL ONTARIO SECTION)
MR. G.J. KINLIN	DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC	MINISTRY OF NORTHERN DEVELOPMENT & MINES
MR. M. COATES	ONTARIO FORESTRY ASSOCIATION
MR. P. ODORIZZI	BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY





APPEARANCES: (Cont'd)

MR. R.L. AXFORD	CANADIAN ASSOCIATION OF SINGLE INDUSTRY TOWNS
MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON
MR. C. BRUNETTA	NORTHWESTERN ONTARIO TOURISM ASSOCIATION





I N D E X   O F   P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
<u>JOHN McNICOL,</u>	
<u>FRANK D. KENNEDY,</u>	
<u>J. JOSEPH CHURCHER,</u>	
<u>RICHARD WILLIAM GROVES,</u>	
<u>HARTLEY MULTAMAKI,</u>	
<u>ALBERT BISSCHOP,</u>	
<u>ROGER W. DAVISON,</u>	
<u>ROBERT THOMAS FLEET, Resumed</u>	24901
Continued Cross-Examination by Mr. Lindgren	24906
Continued Cross-Examination by Ms. Swenarchuk	25024





I N D E X   O F   E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
889	West Patricia Land Use Plan, Proposed Policy and Optional Plans dated June, 1982.	24902
890	Statement of the Honourable Vince Kerrio, to the Ontario Legislature dated June 19th, 1989.	24945
891	OFAH Interrogatory Question No. 52 (Panel 15).	25127
892	Excerpt from the Woodland Caribou Provincial Park Background Information.	25134
893	Document Package submitted by Forests for Tomorrow consisting of amendments to Red Lake Plan with attached new areas of concern since plan completed.	25155



1       ---Upon commencing at 8:45 a.m.

2                   THE CHAIRMAN: Thank you. Be seated.

3                   Mr. Hanna?

4                   MR. HANNA: Mr. Chairman, there is a  
5 preliminary matter I would like to deal with before we  
6 start this morning. It evolves out of the discussions  
7 we had yesterday evening regarding the schedule of the  
8 hearing.

9                   I intended to come before the Board and  
10 ask for direction in terms of discussing the procedures  
11 for the satellite hearings, and given the discussions  
12 that we had last evening, I can see that there is some  
13 connection between what the Board might decide in terms  
14 of how we expedite the process and the procedures for  
15 the satellite hearing.

16                   Obviously I don't want to deal with them  
17 this morning. I simply would ask the Board that we  
18 give due notice to all the parties so that they can  
19 come forward and present to the Board their suggestions  
20 they might have in terms of how the satellite hearings  
21 might be improved and how they might be integrated with  
22 the decision the Board make might in terms of  
23 expediting the process.

24                   Specifically what I would ask the Board  
25 is that some direction be given in terms of parties



1 giving written -- I would like to prepare a written  
2 submission to you rather than take hearing time in  
3 terms of how the satellite hearings might be improved,  
4 and that the Board might also then, after having  
5 received those, set aside some time to have some  
6 discussion of those submissions to you.

7 THE CHAIRMAN: Well, the Board wasn't of  
8 the view that there is anything particularly wrong with  
9 the satellite hearings the way they were conducted, but  
10 if you want to make a submission, we will take a look  
11 at it and go from there.

12 MR. HANNA: Thank you, Mr. Chairman.

13 MR. LINDGREN: I believe that Mr. Freidin  
14 would like to file some of the undertakings from last  
15 week.

16 MR. FREIDIN: Two matters, Mr. Chairman.  
17 There were a series of documents marked or identified  
18 as Exhibit 883A, B and C. They are letters basically  
19 from the regional director to the district manager, et  
20 cetera, in relation to the Red Lake Plan.

21 So I could file that and provide copies  
22 to the parties, and also I have copies of Exhibit 884  
23 which was a bulletin dated May the 3rd, 1988 which  
24 deals with Timber Management Planning for Primary Roads  
25 on Crown Management Units.

1 THE CHAIRMAN: Very well.

2 MR. FREIDIN: (handed)

3 THE CHAIRMAN: Thank you.

4 MR. FREIDIN: Mr. Chairman, just to  
5 remind you what portions of that 883 are A, B and C;  
6 page 33 and 34 are 883A, page 38 and 39 are 883B, and  
7 the notice at the end which relates to the post-fire  
8 plan is 883C.

9 THE CHAIRMAN: Thank you.

10 MR. CASSIDY: Mr. Chairman, in respect to  
11 Mr. Hanna's remarks, perhaps I could ask the Board to  
12 order Mr. Hanna, when he is providing submissions to  
13 the Board, to make sure that he does that to all  
14 full-time parties. I don't propose to make any  
15 submissions at the present time until I see his and at  
16 which time time, if I deem it necessary, I may provide  
17 submissions as well.

18 THE CHAIRMAN: Thank you. Would you do  
19 that, Mr. Hanna, please?

20 MR. HANNA: Certainly, Mr. Chairman.

21 JOHN McNICOL,  
22 FRANK D. KENNEDY,  
23 J. JOSEPH CHURCHER,  
24 RICHARD WILLIAM GROVES,  
25 HARTLEY MULTAMAKI,  
ALBERT BISSCHOP,  
ROGER W. DAVISON,  
ROBERT THOMAS FLEET, Resumed

1 MR. KENNEDY: Mr. Chairman, the panel has  
2 an undertaking we would like to file as well.

3 THE CHAIRMAN: Very well.

4 MR. KENNEDY: Perhaps, Mr. Waldowick, I  
5 could give you some copies and you could distribute for  
6 us.

7 Mr. Chairman, this is an excerpt from the  
8 proposed policy and optional plans for the West  
9 Patricia area, pages 202 to 204.

10 THE CHAIRMAN: Has that been given an  
11 exhibit number already?

12 MR. KENNEDY: No, it has not.

13 THE CHAIRMAN: Okay. That will be  
14 Exhibit 889, I believe.

15 MR. FREIDIN: And perhaps they could be  
16 marked then as the West Patricia Land Use Plan,  
17 Proposed Policy and Optional Plans dated June, 1982.

18 (handed)

19 THE CHAIRMAN: Thank you.

20 ---EXHIBIT NO. 889: West Patricia Land Use Plan,  
21 Proposed Policy and Optional Plans  
dated June, 1982.

22 THE CHAIRMAN: Mr. Lindgren, are you  
23 ready?

24 MR. KENNEDY: Mr. Chairman--

25 THE CHAIRMAN: Sorry.



1                   MR. KENNEDY: --I thought I would just  
2 address to the Board why this undertaking was asked  
3 for.

4                   There was a request, I believe from Ms.  
5 Swenarchuk as to if there had been any previous  
6 agreements or commitments in regards to road access  
7 concerns around Little Vermilion Lake, and last week I  
8 indicated that I believe there was one document, one  
9 public document that recorded previous commitments,  
10 that was being prepared prior to the timber management  
11 plan, and that's the reason why I've provided excerpts  
12 out of the proposed policy and optional plan for the  
13 West Patricia area.

14                  I'd just like to draw the Board's  
15 attention to two portions of this document, of Exhibit  
16 889. I included a cover page, but after the cover page  
17 there is a land use activity for zone No. 22,  
18 Nungesser, Little Vermilion. And the first line under  
19 Area Description, I would like to read it into the  
20 record:

21                   "The area is located generally north of  
22 Red Lake and includes the Nungesser-  
23 Little Vermilion Lake water systems and  
24 an adjacent 1 - 2 kms of surrounding land  
25 area."

1                   So that is identifying the area in  
2                   question. And the last line under part b., Land Use  
3                   Policy, indicates that:

4                   "Although timber harvesting will be  
5                   permitted, strict controls on  
6                   operations relating to access and  
7                   aesthetics will be enforced."

8                   And I believe that is the previous  
9                   agreement or commitment that had been talked of.

10                  MR. BISSCHOP: Mr. Chairman, one final  
11                  matter we would like to address. You will recall last  
12                  week in the discussion on the minor amendment in the  
13                  Timmins area that Mr. Fleet spoke about, I believe  
14                  either yourself or Mr. Martel asked a question  
15                  concerning whether or not the Ministry of  
16                  Transportation has ever expressed concerns about, I  
17                  think, the subject of use and maintenance of roads.

18                  At the time I responded by recollecting  
19                  that there was an expression of a concern by that  
20                  ministry in the government review and that we responded  
21                  to that concern in the government review.

22                  I don't think it's essential that you  
23                  have the exhibit before you, I would just like to refer  
24                  to the pages - the government review is Exhibit No. 5 -  
25                  on pages 198 to 201 there are two letters from the

1 Ministry of Transportation and Communications, as it  
2 was called at the time, the first letter responding to  
3 the December, 1985 version of the Class EA and the  
4 second letter responding to the June, '87 version of  
5 the Class EA in which they expressed this concern about  
6 use and maintenance and make reference to local roads  
7 boards.

8 On pages 256 and 257 of the government  
9 review, Exhibit 5, you will find the Ministry of  
10 Natural Resources' response to the Ministry of  
11 Transportation and Communications, and there is one  
12 point I would like to make on that response.

13 In their original letter they referred to  
14 an inter-ministerial committee on access roads issues  
15 that was looking into this subject at the time. In our  
16 response we indicated that we would await the report of  
17 that committee before we made the necessary response to  
18 address the concern through this environmental  
19 assessment.

20 I can advise that we understand that that  
21 committee has reported - I believe it was in December  
22 of 1988 - and submitted recommendations which are  
23 currently being addressed by a number of sub-committees  
24 that are chaired by the Ministry of Northern  
25 Development and Mines with representation from the



1 Ministry of Transportation and MNR, and I believe they  
2 are currently addressing those recommendations and we  
3 will continue to await the outcome of that before we  
4 deal specifically with whatever those committees  
5 report.

6 THE CHAIRMAN: Thank you. Well, Mr.  
7 Lindgren, I think we are up to you.

8 MR. LINDGREN: Okay. Thank you very  
9 much.

10 I would like to start by thanking Mr.  
11 Campbell for kindly filing copies of the access roads  
12 Class EA. It was certainly above and beyond the call  
13 of duty for him to track it down over the long weekend.

14 CONTINUED CROSS-EXAMINATION BY MR. LINDGREN:

15 Q. Mr. Bisschop, last week you may  
16 recall that we were reviewing some of the similarities  
17 and differences between the timber management planning  
18 process and the FEPP in the context of road planning  
19 and, for example, we looked at the EA checklist that's  
20 required under the FEPP for environmental concerns that  
21 may arise in the context of road planning. Do you  
22 recall that discussion?

23 MR. BISSCHOP: A. Yes, I do.

24 Q. And when we left off we were looking  
25 at the detailed analysis that occurs under step 2 of

1 the FEPP and I would like to continue that discussion  
2 with you. And it may be advisable, Mr. Bisschop, to  
3 have in front of you a copy of Exhibit 887 which is the  
4 summary of the FEPP.

5 And if the parties do not have this  
6 summary before them, I can advise you that it is  
7 reproduced at page 2 of the access roads Class EA.

8 A. I have that.

9 Q. Now, Mr. Bisschop, can you confirm  
10 for me that the analysis required under step 2 calls  
11 for an evaluation of each alternative under four  
12 headings and these headings are land use and tenure,  
13 land, water and social concerns. Can you confirm that  
14 for me?

15 A. Yes, that's correct.

16 Q. The Class EA then goes on to identify  
17 seven broad areas of environmental concerns that are  
18 likely to be important in the context of roads. These  
19 are described beginning at page 19 of the Class EA.  
20 Can I ask you to turn to that page.

21 THE CHAIRMAN: What page was that?

22 MR. LINDGREN: It's page 19 of the access  
23 roads Class EA.

24 Q. Now, the first broad area of concern  
25 is denoted as special areas and these are defined as

1 areas of significant wildlife, fishery or vegetative  
2 habitat, significant land features, water features,  
3 historical/archaeological sites or areas of exceptional  
4 aesthetic quality.

5 Now, this is roughly analogous to the  
6 AOCs that we find under the timber management planning  
7 process; is that correct?

8 MR. BISSCHOP: A. It's analogous to our  
9 values.

10 Q. And then on the last paragraph,  
11 paragraph 19 -- or page 19 there is a description of  
12 the potential effects on these special areas that might  
13 be caused by roads; is that correct?

14 A. That's correct.

15 Q. And then in the -- I don't intend to  
16 go through this in any detail, but on the following  
17 pages the FEPP goes on to specifically identify land  
18 use conflicts, soil erosion, stream crossings and water  
19 quality, wetlands and low lying areas, waste material  
20 disposal and gravel pits as special environmental  
21 concerns in the context of roads; is that correct?

22 A. Yes. And what I would add in  
23 explanation is that, as you have indicated, item No. 1  
24 deals with what I would call values, values which could  
25 be affected. Many of the others I believe are really



1 talking about effects; for example, soil erosion,  
2 effects of stream crossings, land use conflicts. So I  
3 think there is a mix of values and effects in this list  
4 of seven items.

5 Q. My question to you, Mr. Bisschop, is:  
6 Why doesn't Appendix 2 of the Timber Management Class  
7 EA contain a similar mix of values and effects to  
8 provide guidance to road planners?

9 A. Again, as I think I described last  
10 week, we spoke to how we approach the identification of  
11 values that can be potentially affected by timber  
12 management activities including roads, and when we are  
13 dealing with the subject of roads, whenever we encounter  
14 one of those values, we define an area of concern in  
15 which we look in detail at the planning of a road  
16 location and address the subject of effects and  
17 measures to prevent, minimize or mitigate those  
18 effects.

19 So I think while that list of items isn't  
20 specifically addressed in Appendix 2, the basic  
21 elements of what is being addressed there are addressed  
22 in our approach to planning through values, through the  
23 planning process that we apply to values,  
24 identification of effects through Appendix 2 and  
25 measures to prevent, minimize or mitigate those

1 effects.

2 Q. Well, would it not be advisable to  
3 provide this sort of guidance or direction in Appendix  
4 2 to assist planners in identification of values that  
5 could be adversely affected?

6 A. We believe we've addressed that  
7 through the concept of values and through the  
8 description of the effects of timber management  
9 operations, specifically roads in this case, on those  
10 values as was discussed in detail in the evidence of  
11 Panel 14.

12 Q. Can I ask you to turn to page 24 of  
13 the access roads Class EA, and I'm looking at the third  
14 full paragraph under the heading Public Notice. Now,  
15 can you confirm for me that this passage recognizes the  
16 need for early and extensive public consultation during  
17 step 2 under the access roads Class EA?

18 A. Yes, that's correct.

19 Q. In fact, if we read the opening lines  
20 of the third full paragraph:

21 "As a part of the initial planning  
22 of a project, the public is to be  
23 notified and made aware of the project  
24 proposal. More important, the public  
25 should be given the opportunity to take

1 part in defining the purpose of,  
2 rationale for and alternatives related to  
3 such a project. This is an essential  
4 part of public involvement which should  
5 not be overlooked."

6 Now, keeping that statement in mind, Mr.  
7 Bisschop, can you advise me if and to what extent the  
8 public is involved in the definition of the purpose or  
9 rationale of a timber management plan or any part of  
10 the plan?

11 A. I think I would first make the point  
12 that the class environmental assessment itself and  
13 these hearings provide that opportunity for public  
14 involvement in the entire subject of the purpose of  
15 timber management on Crown lands in Ontario and through  
16 the public involvement opportunities in these hearings  
17 that dimension of -- at least some dimension of early  
18 involvement in matters related to timber management is  
19 provided.

20 In the actual preparation of timber  
21 management plans themselves, the first notice that we  
22 provide at the very outset of planning I think provides  
23 the equivalent early notice that's provided in this  
24 Class EA.

25 I think that there is expected to be, at



1 least on the part of many members of the public who  
2 have a direct interest in timber management, an  
3 understanding of what timber management plans will  
4 address and, therefore, that early notice through the  
5 invitation to participate provides the opportunity for  
6 anyone who, for example, is specifically interested in  
7 the subject of access roads to get early involvement.

8 Q. Well, under the timber management  
9 planning process, Mr. Bisschop, isn't it true that by  
10 the time the first notice goes out the purpose and  
11 rationale of the plan or any part of the plan has, in  
12 fact, already been determined?

13 A. I would argue that that subject of  
14 purpose will have been emphatically determined as an  
15 outcome of this hearing.

16 Q. Then the answer to my question is  
17 yes?

18 A. Could you repeat the question,  
19 please?

20 Q. The question was: By the time that  
21 the first notice is issued under the timber management  
22 planning process, in fact the purpose and rationale of  
23 the plan or any constituent part of the plan has  
24 already been determined?

25 A. Yes, through the hearing.

1                   Q.   Could I ask you to turn to page 25 of  
2   the access roads Class EA, and here under heading 3,  
3   Special Areas, the FEPP gives some specific direction  
4   about how these special areas should be protected.  And  
5   reading the second paragraph under that heading:

6                   "The best means of avoiding the  
7   destruction of special areas is by  
8   identifying them and by providing for  
9   them early in the planning process.  
10   Since they are generally highly valued  
11   areas their destruction should be avoided  
12   if it is at all possible."

13                  And then reading the paragraph above that  
14   in the upper case lettering:

15                  "Special areas should be identified at  
16   the beginning of the planning process  
17   and they should receive high priority in  
18   making tradeoffs about road locations,  
19   gravel pit sites, work campsites and  
20   waste disposal sites."

21                  In Appendix 2 of the timber management  
22   Class EA, is there any expressed statement that the  
23   AOCs should receive high priority when making  
24   tradeoffs?

25                  A.   Appendix 2 doesn't address that

1 question. Appendix 2 assumes -- it starts off with the  
2 assumption that you have to traverse the area of  
3 concern and then there are detailed planning  
4 requirements to determine exactly where and how you  
5 will traverse that area of concern.

6 The subject of consideration of values  
7 and the associated tradeoffs related to affecting those  
8 values or avoiding those values is addressed in the  
9 actual -- in the case of primary roads, as I have  
10 described in evidence, through the 20-year primary road  
11 corridor planning in part and, again, at the five-year  
12 level through the more refined location of that road.

13 With secondary roads I think -- with  
14 secondary roads a similar approach is taken. You  
15 attempt to avoid special areas, as identified here,  
16 what I would call values, through the determination of  
17 the location for the road corridor knowing that you are  
18 going to affect some of those values. Appendix 2 then  
19 kicks in and requires of you to determine a specific  
20 location and associated measures to ensure, in this  
21 case obviously not prevention, but minimization and  
22 mitigation of adverse impacts.

23 So Appendix 2 cannot address the subject  
24 of avoiding values in that it's not intended to do  
25 that; it's intended to apply when you do have to



1 encounter -- when you do encounter those values and you  
2 have to traverse them.

3 Q. Looking at the timber management  
4 Class EA at large then, can you point the Board or me  
5 to any expressed statement in the Class EA to the  
6 effect that AOCs should be avoided if at all possible  
7 and should receive the highest priority in making  
8 tradeoffs?

9 A. If I could have a moment, please.  
10 Again, referring to the discussion of primary road  
11 planning for the 20-year period, there is discussion  
12 beginning at page 134, line 36 of Exhibit 4, the Class  
13 EA Document, and continuing to line 5 on page 135 and  
14 then also on page 152. I am citing a couple of  
15 examples that I can quickly locate, there may be  
16 others.

17 On page 152, starting at line 5 through  
18 line 9, we address the similar subject for the planning  
19 of secondary road locations.

20 Q. Returning to page 135, line 2, it  
21 indicates that:

22 "The planners normally attempt to avoid  
23 or minimize intrusion into areas of  
24 concern."

25 Now, I might have asked you this question

1 last week, but I would like to ask it again. Is there  
2 an MNR policy or directive or guideline other than this  
3 statement that directs planners to avoid areas of  
4 concern or to give them high priority when making  
5 tradeoffs?

6 A. Yes. We did discuss this at some  
7 length last week and I believe my answer at that time -  
8 and I am positive - was no, there is no further  
9 direction other than what's presented on page 135.

10 Q. In your opinion --

11 A. There is no policy.

12 Q. In your opinion, Mr. Bisschop, would  
13 it be advisable to produce or establish such policies  
14 or bulletins to assist road planners in giving high  
15 priority to AOCs when making tradeoffs?

16 A. I think it is an understood part of  
17 the planning business. I'm not sure that it requires  
18 specific direction through a bulletin that provides  
19 that direction.

20 I think, again as I indicated last week I  
21 believe, I'm not sure that we need to provide specific  
22 direction on a number of matters - which I think your  
23 example would be one - to provide the kind of direction  
24 that I think is commonly understood in the subject of  
25 planning by planners who are involved, in this case, in

1 the determination of access road locations. I think it  
2 is something that is understood.

3 You attempt to minimize environmental  
4 consequences of road locations and you do that, in the  
5 case of other values, by attempting to avoid them.

6 Q. With all due respect, Mr. Bisschop, I  
7 believe my question called for a yes or no answer. The  
8 question was: Would it be advisable for the Ministry  
9 to produce any bulletins or guidelines or directives  
10 indicating that AOCs should receive high or the highest  
11 priority when making tradeoffs?

12 THE CHAIRMAN: Well, Mr. Lindgren, with  
13 respect, obviously it is possible for the Ministry to  
14 produce it if they want.

15 MR. LINDGREN: I am asking if it's  
16 advisable in his opinion.

17 THE CHAIRMAN: And I think he has replied  
18 effectively that the planners understand this  
19 intuitively and it is really not necessary, planners  
20 know this. I think that was his answer.

21 MR. BISSCHOP: I think it's not  
22 advisable.

23 MR. LINDGREN: Okay, thank you.

24 THE CHAIRMAN: Mr. Bisschop, just going  
25 back to some of your earlier answers today. Can you



1 tell the Board whether or not the wording of the EA  
2 would be different knowing that this matter will, in  
3 fact, come to a public hearing, as opposed to writing  
4 the EA without knowing that?

5 And the reason I am asking that is  
6 because it is my recollection that the Minister of  
7 Natural Resources on his own requested a hearing by  
8 writing to the Minister of the Environment and  
9 indicating that he expects or would like to see this  
10 matter reviewed publicly.

11 Now, I'm not sure whether that was in his  
12 mind at the time the EA was written or popped into his  
13 mind when he realized there was little likelihood that  
14 he wasn't going to get a hearing or that the Minister  
15 of the Environment was not going to designate this for  
16 a hearing and, therefore, decided that he might as well  
17 publicly acknowledge that it was going to hearing.

18 Whatever the case, because of your  
19 answers earlier indicating that the purpose and  
20 rationale would be dealt with in terms of the public at  
21 a public hearing, would the document have been written  
22 differently if there was going to be no such hearing or  
23 if it was unclear as to whether there was going to be a  
24 hearing?

25 MR. BISSCHOP: That's a very interesting

1 question for me, Mr. Chairman, because - without  
2 getting too lengthy - the document has been written  
3 over a number of years; I began it in 1981. I have  
4 always been of the view that it ought to be written  
5 very, very carefully with very clear wording because of  
6 my anticipation at the time that the subject could very  
7 well be the subject of a hearing.

8 I think what I would add is that, in my  
9 view, I would have probably added some explanation to  
10 address the kinds of questions that have arisen through  
11 the hearing to provide more clear direction, but in  
12 general I would say no, the wording wouldn't be  
13 different because I, and I think the Ministry  
14 ultimately, had very much anticipated that the subject  
15 was of major enough public interest that a hearing was  
16 inevitable.

17 THE CHAIRMAN: Okay.

18 MR. LINDGREN: Q. Mr. Bisschop, could I  
19 ask you to return to page 25 of the access roads Class  
20 EA. The final full paragraph of this document  
21 states --

22 MR. BISSCHOP: A. Excuse me, which page,  
23 sorry?

24 Q. Page 25 of the access roads Class EA.

25 A. Yes, I have it.

1 Q. And the final full paragraph  
2 indicates that:

3 "Environment Canada has recommended a  
4 460 m. (about 1500 foot) buffer zone  
5 be maintained between the alignment and  
6 certain special areas..."

7 And the reference is to Curran and Etter  
8 1976. Are you familiar with that document, Mr.  
9 Bisschop?

10 A. With the Curran document?

11 Q. That's correct.

12 A. No, I'm not.

13 Q. To your knowledge, has the MNR ever  
14 used this rule of thumb when planning access roads  
15 under the access roads Class EA?

16 A. To my knowledge, I'm not sure whether  
17 it has or hasn't been used.

18 Q. Would it be advisable for Appendix 2  
19 of the Timber Management Class EA to include a similar  
20 rule of thumb or a minimum buffer for certain specific  
21 types of AOCs; recognizing that there may be a need for  
22 flexibility, however, would it be advisable to provide  
23 this sort of minimum guidance?

24 A. Again, Appendix 2 would not be the  
25 place to do it. Appendix 2, again, comes into play



1       when you know you are going to encounter a value and  
2       you have to traverse it. If it were to be used, it  
3       would have to be discussed in the text of the planning  
4       process where you are talking about locating the  
5       corridors themselves. Appendix 2 is not the  
6       appropriate place.

7                   Q. Does the Class EA -- or would it be  
8       advisable for the Class EA to provide certain minimum  
9       buffers for certain types of AOCs?

10                  A. I'm trying to -- I think it's  
11       possible that, for example, the resource environmental  
12       manuals that we have dealing with, for example, osprey,  
13       might in fact have direction in that regard. Perhaps  
14       Mr. McNicol could help on that.

15                  MR. McNICOL: A. I think for those  
16       features, Mr. Lindgren, that we know can suffer from  
17       disturbance through proximity of access roads we do  
18       have buffers, and Mr. Bisschop has indicated osprey.  
19       There is also heron, eagle, obvious species that are  
20       disturbed by close access and there are buffer zones  
21       specified there.

22                  I would just like to point out that the  
23       type of guidance that is given here with regard to a  
24       buffer, 460 metres for special areas, I'm not familiar  
25       with this particular paper, but for me it's very

1 difficult to understand how they could come up with a  
2 generic type buffer like that for all types of special  
3 areas. It doesn't make a lot of sense to me.

4 And I think he goes on -- or the author  
5 goes on to say here that:

6 "...it is more desirable to determine the  
7 distance by which these areas should be  
8 avoided on a case by case basis."

9 And, in essence, that's what we do  
10 through our area of concern planning process.

11 Q. Well, returning to Mr. Bisschop, I  
12 think the author has indicated that while the actual  
13 distance should be determined on a case-by-case basis,  
14 the authors do indicate that a 1500-foot buffer zone  
15 should perhaps be used as a general rule of thumb.

16 Mr. McNicol has provided wildlife  
17 examples of where some guidance in terms of buffer  
18 zones have been provided. Would it be advisable to  
19 incorporate that kind of guidance for wildlife and  
20 other values into the Class EA?

21 MR. BISSCHOP: A. I think the Class EA  
22 should address the principle of case-by-case analysis.  
23 Perhaps guidance could be provided through, for  
24 example, the resource environmental manuals that deal  
25 with specific values so that there is some direction

1 provided to planners from specific documents related to  
2 specific values.

3 One thing I would like to add is that in  
4 the field of environmental assessment it's understood  
5 that there will be situations where you are going to  
6 affect a value, in this case perhaps with a road, and  
7 you make the decision, the careful decision that that's  
8 an acceptable impact that you are willing to accept,  
9 into the whole question of decision-making and trading  
10 off within the context of environmental assessment.

11 So I don't think you could always ensure  
12 that that kind of a rule of thumb would ensure total  
13 protection of values that might be encountered.

14 Q. Let's return to the summary of the  
15 FEPP and move into step 3 which is called Meeting on  
16 the Project Proposal. Mr. Bisschop, can you confirm  
17 that in step 3 the district supervisors meet with the  
18 district manager who then selects the most appropriate  
19 alternative?

20 A. That's correct.

21 Q. And at this stage he also -- the  
22 district manager also has the opportunity to reject the  
23 proposal altogether; is that correct?

24 A. That's right. At the meeting the  
25 analysis of each of the alternatives is discussed and



1 on the basis of that discussion the district manager  
2 could conclude that the effects of any of the  
3 alternatives aren't acceptable and the project ought to  
4 be rejected.

5 Q. Under the Timber Management Class  
6 Environmental Assessment or Appendix 2, is there any  
7 equivalent to this approval or rejection stage for  
8 roads?

9 A. I think the equivalent is through the  
10 review and approval of the -- the review process that  
11 occurs for the entire plan. There may be situations  
12 where there are contentious roads perhaps, that during  
13 the review process the various levels of the Ministry  
14 that are involved in that review may come to a  
15 determination that a particular road ought not proceed,  
16 and that perhaps the question of looking at  
17 alternatives should be addressed more broadly.

18 Q. Now, as I understand your answer,  
19 that possibility would occur or could occur during the  
20 review and approval process; is that correct?

21 A. Formally, yes.

22 Q. Is there no earlier formal  
23 opportunity to accept, reject or stop entirely the road  
24 planning process?

25 A. The reason I said formally through

1 review and approval is that during the preparation of  
2 the plan there may be -- periodically there may be  
3 issues that arise within the context of the planning  
4 team's efforts that require going to the district  
5 manager to seek resolution, and it's possible that  
6 during that part of planning the district manager may  
7 make a decision about, in this case, a particular road  
8 not proceeding.

9 Q. But there is no formal equivalent to  
10 step 3?

11 MR. FREIDIN: Mr. Chairman, I am just  
12 wondering where this is all leading. If in fact there  
13 is a formal opportunity and the road can in fact not be  
14 approved, could be stopped and not be built as a result  
15 of the process which has been put forward, what is the  
16 magic in terms of whether it is a formal opportunity  
17 through plan review and approval or whether there is  
18 something which occurs before?

19 I don't see where the answer gets us in  
20 terms of helping the Board.

21 MR. LINDGREN: The concern, Mr. Chairman,  
22 is that the formal review and approval opportunity does  
23 not occur until virtually the very end of the process  
24 and by that time a considerable amount of time and  
25 effort has been devoted to the roads planning process,

1 and I think it's fair to say that the planning process  
2 itself will gather some sort of inertia or momentum  
3 that may be unlikely to be overturned at the latter  
4 stage.

5 So I am wondering if it's advisable to  
6 implement an earlier stage to determine whether or not  
7 particular roads should proceed.

8 MR. FREIDIN: Mr. Chairman - Mr. Bisschop  
9 can comment - but I think there has been evidence led  
10 about bump-up and that bump-up is something which is  
11 available at any particular place in the process, and  
12 notwithstanding the bump-up that the planning team  
13 could proceed of that facility, the road in this case,  
14 would be just you get approval for it at the end.

15 I think that is a provision which perhaps  
16 addresses what my friend is raising.

17 MR. BISSCHOP: I could perhaps add. I  
18 referred to the fact that there may be situations  
19 during the deliberations of the planning team where  
20 resolution of an issue is sought from the district  
21 manager.

22 During the preparation of the plan, of  
23 course, we also have the information centre which is  
24 held at a time, roughly halfway to two-thirds of the  
25 way through the preparation of the plan, at which some



1 concern may be expressed by the public that obviously  
2 comes to the attention of the planning team and the  
3 district manager and, in the case of a road again, the  
4 subject of whether or not that road ought to proceed  
5 would become part of the discussions of the planning  
6 team and likely involve the district manager in terms  
7 of deciding on whether or not that contentious proposal  
8 ought to proceed further in the preparation of the  
9 plan.

10 THE CHAIRMAN: Well, Mr. Bisschop, let's  
11 confine your answers to the specific questions asked.  
12 I believe the question asked by Mr. Lindgren: Would it  
13 be advisable to incorporate a formal step or a formal  
14 process where a roads proposal could be rejected at an  
15 earlier stage than the one that is presently in the  
16 planning process under the Class EA before the Board?

17 Would it be advisable or would it not, in  
18 your view?

19 MR. BISSCHOP: In terms of formally  
20 writing words that speak to that provision, I think  
21 not. I think it's, again, understood in the planning  
22 process.

23 THE CHAIRMAN: Thank you.

24 MR. LINDGREN: Q. Returning to the FEPP,  
25 Mr. Bisschop, if the district manager does select an

1 alternative, final notice is given to the public and  
2 the public does have another opportunity to raise  
3 concerns or to make comments about the selected  
4 proposal; is that correct?

5 MR. BISSCHOP: A. That's correct.

6 Q. And there are no expressed time  
7 limits on the public comment period under the FEPP?

8 A. No, there aren't.

9 Q. We then move into step 4 where the  
10 proponent prepares a project plan which consists of a  
11 map, a detailed project phase description and a list of  
12 the environmental protection measures that will be  
13 implemented. Is that the sum and substance of step 4?

14 A. That's correct.

15 Q. And during this time the project plan  
16 again may be modified, re-evaluated or discontinued in  
17 light of the public comments received after the final  
18 notice; is that correct?

19 A. That's correct.

20 Q. And if the project is to go ahead,  
21 the MOE is notified via a memorandum?

22 A. That's correct.

23 Q. And then finally in step 6, the  
24 proponent prepares the EA file which is to be kept at  
25 the district office and a monitoring program is also to

1 be established; is that correct?

2 A. That's correct.

3 Q. Now, having reviewed the two planning  
4 processes over last week and today, Mr. Bisschop, and  
5 to sum it up, I take it that you would agree with me  
6 that there are certain similarities between the FEPP  
7 and the timber management planning process at least  
8 with respect to roads?

9 A. There are many similarities, yes.

10 Q. However, there are some significant  
11 differences in terms of the actual process followed and  
12 the documentation that is required?

13 A. Yes.

14 Q. Now, one of these differences that we  
15 have just discussed was the lack of an expressed time  
16 limit on the public comment period, and under the  
17 timber management planning process there is a 30-day --  
18 standard 30-day comment period; is that correct?

19 A. Yes. At four different times, yes.

20 Q. Another difference in the -- or  
21 between the FEPP and the timber management planning  
22 process concerns the role of the Ministry of the  
23 Environment.

24 Now, as we have discussed, under the FEPP  
25 the MOE is to be notified very early in the process in

1 order to identify any concerns it might have about  
2 their proposal.

3 Now, under the timber management planning  
4 process, as far as I can determine, the first time that  
5 the MOE is formally involved is after the timber  
6 management plan has been finalized. Is that the case?

7 A. All public notices are sent to MOE.  
8 The question of their involvement, I would suggest, is  
9 up to them.

10 THE CHAIRMAN: Didn't we discuss this  
11 effectively yesterday and it was clarified by Mr.  
12 Campbell that MOE would like to have the option, at  
13 their option, of being part of a planning team but not  
14 necessarily have the Board order them to be part of the  
15 planning team basically because of resource problems in  
16 that area?

17 So is it not the case that MOE could be  
18 involved under the Class EA planning process right from  
19 the beginning as soon as the planning team has been  
20 struck, if they so desire?

21 MR. BISSCHOP: That's correct, if they  
22 desire.

23 MR. LINDGREN: I thought Mr. Bisschop's  
24 evidence last week was to the effect that the MOE is  
25 not automatically invited to sit on the planning team.



1 THE CHAIRMAN: No, but we were discussing  
2 whether or not, from MOE's perspective, they would like  
3 to be, in all cases, part of the planning team, whether  
4 they could resource-wise be a part of the planning team  
5 in all cases. And I think Mr. Campbell clarified that  
6 yesterday, that they would like the option of being  
7 part of the planning team, but it should be their  
8 option.

9 MR. LINDGREN: I don't have any problems  
10 with that position, Mr. Chairman.

11 Q. I would like to ask Mr. Bisschop one  
12 final question on that matter; and, that is: Would it  
13 be reasonable for the Board to require the MNR to at  
14 least seek the earlier involvement of the MOE in the  
15 timber management planning process?

16 THE CHAIRMAN: Well, by inviting them to  
17 be part of the planning team they may not respond  
18 positively; is that not doing just that?

19 MR. BISSCHOP: I'd suggest we seek their  
20 early involvement now. We provide them the notice and  
21 leave it to them to indicate an interest.

22 I'm sorry, I was walking out of the room  
23 last night when Mr. Campbell was addressing this  
24 subject, so I don't...

25 MR. CAMPBELL: Well, what a mistake.

1           MRS. KOVEN: But isn't the problem, Mr.  
2           Bisschop, that the Minister of the Environment receives  
3           public notice after the planning team has been struck;  
4           they are not notified before the planning team is  
5           assembled?

6           MR. BISSCHOP: That's correct. And the  
7           position we have taken in the concept of the planning  
8           team is that the membership of the planning team in  
9           terms of planning team members is MNR staff and, in the  
10          case of company plans, company staff.

11          The entire subject of other ministry  
12          involvement as advisors we first formally addressed --  
13          well, we formally addressed some time ago with MTR. In  
14          terms of MOE, that's a fairly recent development.

15          THE CHAIRMAN: Well, what is the position  
16          of the Ministry on that question right now?

17          MR. BISSCHOP: The position is --

18          THE CHAIRMAN: Is the Ministry taking the  
19          position that MOE and/or other agencies will be invited  
20          to form part of the planning team?

21          MR. BISSCHOP: A district manager -- I  
22          should go back. The wording of condition No. 1 is our  
23          position. Other ministries would be invited, as the  
24          district manager decides, to act as advisors to  
25          planning teams.

1 MR. CAMPBELL: Just for clarity, Mr.  
2 Chairman, I take that as being something different from  
3 being a member of the planning team. Perhaps I would  
4 just like to be sure that we are all talking the same  
5 language.

6 THE CHAIRMAN: Well, there is the two  
7 aspects of the planning team, members and advisors.

8 MR. CAMPBELL: All right.

9 THE CHAIRMAN: And you are talking about  
10 MOE, for instance, being what; an advisor or a member?

11 MR. BISSCHOP: Advisor. Very clearly I  
12 would refer to condition No. 1 of the exemption --  
13 sorry, term and condition No. 1 that states:

14 "When the district manager, in  
15 consultation with other government  
16 ministries and agencies, identifies  
17 matters of specific interest to them  
18 which will be addressed in the timber  
19 management plan, representatives of those  
20 ministries and agencies will be invited  
21 to act as advisors to the planning team."  
22 And that, Mr. Chairman, is the Ministry's  
23 position.

24 MRS. KOVEN: So it won't be done  
25 routinely as a notice, but depending on what the

1 district manager deems to be the usefulness of doing it  
2 at that time?

3 MR. BISSCHOP: That's right. In  
4 addition, we would be providing all government  
5 ministries, as outlined in the subsequent conditions,  
6 with the regular public notices.

7 THE CHAIRMAN: But wouldn't the Ministry  
8 of the Environment in all cases be asked to be an  
9 advisor? How can you have a timber management plan  
10 that would not have environmental impacts of some type?

11 MR. BISSCHOP: Again, Mr. Chairman, I  
12 think we spoke to the resources problem that the  
13 Ministry of the Environment has.

14 THE CHAIRMAN: No, no, but that's a  
15 problem as to whether they can respond and say: Yes,  
16 we will provide a body as an advisor.

17 I'm talking about whether or not they  
18 will, in all cases, be invited to at least be an  
19 advisor. And it seems to be from the wording of this  
20 condition that they will be invited in cases where you  
21 think the subject matter of the plan may affect that  
22 particular ministry, and I am going one step further  
23 and saying: In what circumstances, for example, would  
24 they not be involved, the Ministry of the Environment,  
25 since the impacts from any timber management plan, I



1 would think, would have some environmental  
2 connotations?

3 MR. BISSCHOP: I think I can only say,  
4 Mr. Chairman, in response to what I would say are the  
5 recent developments on this subject.

6 I can't say today that they would  
7 definitely be invited. I think it's something  
8 obviously that the Ministry of Natural Resources has to  
9 look at very seriously now in terms of the expressed  
10 interest and perhaps it may be that automatically, yes,  
11 for every plan the Ministry of the Environment is  
12 invited to act as an advisor, but I can't today myself  
13 say that that is what we will do effective now.

14 THE CHAIRMAN: Well, would you have any  
15 objections to doing that?

16 MR. BISSCHOP: No. I think we would have  
17 an expectation that they then would become involved and  
18 that hasn't been the history.

19 THE CHAIRMAN: But what is the harm in  
20 MNR's view of, in every timber management plan, sending  
21 out a notice saying to the Ministry of the Environment:  
22 Would you like to become involved as an advisor, or we  
23 are notifying you that you can become involved as an  
24 advisor in connection with this plan.

25 And then the Ministry of the Environment

1       could respond based on their resource problems or what  
2       they perceive to be the problems involving a particular  
3       plan.

4                       If they felt that the involvement would  
5       really not serve a useful purpose because the  
6       environmental impacts would be minimal, they may  
7       respond and say: Thanks for notifying us, but no  
8       thanks for this occasion.

9                       MR. BISSCHOP: That's right. Mr.  
10      Chairman, I see no harm in that.

11                      MR. MARTEL: Can I ask though why you  
12      would not want them as a part of the formal planning  
13      team, what are the objections to that--

14                      MR. KENNEDY: Mr. Martel, perhaps --

15                      MR. MARTEL: --as opposed to being merely  
16      an advisor?

17                      MR. KENNEDY: Mr. Martel, perhaps I could  
18      answer that. I'm not so sure that I would characterize  
19      the proper question as being what is the harm, but  
20      perhaps what is the benefit of being involved.

21                      The approach that we have taken in  
22      preparing our Class EA, as well as our resource  
23      environmental manuals, our implementation manuals for  
24      guidance to staff, we have endeavored to ensure that we  
25      are providing adequate direction to avoid environmental

1 damage, if you will, and the way we are doing that is  
2 by ensuring that we have adequate review of those  
3 documents and experts involved in other areas.

4 I draw attention to the Fish Habitat  
5 Guidelines that have had changes made to them, to  
6 incorporate into them the concerns of the Ministry of  
7 the Environment through the concern over water quality.  
8 And it is then through -- using that as an example, we  
9 have I believe satisfied the concerns of Ministry of  
10 the Environment through that document, in that document  
11 we are providing guidance to our staff.

12 So I think we are achieving the same  
13 thing as having Ministry of the Environment there  
14 present on a day-to-day basis recognizing that our  
15 planning teams are taking place on approximately 100  
16 management units scattered throughout the province,  
17 that there is an ongoing commitment for those planning  
18 team members to be cognizant of environmental concerns  
19 and to apply provincial guidelines and implementation  
20 manuals which have been developed with that express  
21 purpose in mind.

22 So I do believe that we achieve the same  
23 result.

24 THE CHAIRMAN: But what's the harm -  
25 going back to Mr. Martel - of ensuring that they have

1 the opportunity to participate as a member of the  
2 planning team if they so wish?

3 MR. KENNEDY: I do not think that there  
4 is a harm in that. I think Mr. -- if I understood Mr.  
5 Campbell's comments, that they are looking for the  
6 occasional opportunity.

7 THE CHAIRMAN: Why not give them the  
8 choice in every case to see whether that particular  
9 plan is the occasional opportunity that they are  
10 looking for, and then the public at large at least has  
11 the feeling that the Ministry of the Environment,  
12 should it want to become involved in a particular case,  
13 there is no expectation or connotation that before they  
14 can become involved they must be invited; they have an  
15 open standing invitation to be part of it. If they  
16 want to take advantage of that, it is entirely up to  
17 them.

18 MR. KENNEDY: I think that is something  
19 worth considering. I think there may be other ways of  
20 ensuring that the Ministry of the Environment has --

21 THE CHAIRMAN: Why look for another way  
22 rather than the direct way which is: You are invited.  
23 If you don't want to come to our party, don't come, but  
24 you are invited.

25 MR. KENNEDY: The reason I would look at



1 other ways is I would be looking forward to an  
2 opportunity to discuss with Ministry of the Environment  
3 the reasons behind their request. And I think that if  
4 it's involved in terms of staff training so they can be  
5 involved in reviewing plans at their regional offices,  
6 there may be specific ways in which we could address  
7 that concern.

8 THE CHAIRMAN: Okay. Why don't you leave  
9 at this, so we don't waste too much more time on it,  
10 why don't you undertake to consult with the Ministry of  
11 the Environment and sort this out and come back to the  
12 Board with a definitive statement as to why they can't  
13 be invited to participate as a planning team member in  
14 all cases should they wish to.

15 And if they come back and give you an  
16 answer that: Please don't invite us in all cases  
17 because we don't want an open invitation, I think the  
18 Board would like to know that as well.

19 MR. KENNEDY: Very good. I will do so.

20 THE CHAIRMAN: Thank you.

21 MR. LINDGREN: Those are my questions for  
22 Mr. Bisschop on the issue of road planning.

23 MR. FREIDIN: Mr. Chairman, if I might  
24 just add, there has been evidence in terms of the  
25 Ministry of the Environment's involvement. It doesn't

1 go specifically to the issue we have been talking  
2 about, how they get notice to become members or  
3 advisors to the planning team, but there has been  
4 evidence that the draft timber management plans are, in  
5 fact, provided to the Ministry of the Environment early  
6 in the process, they get certain information prior to  
7 the public information centre where it is available.

8 THE CHAIRMAN: Well, we are interested  
9 though in Mr. Lindgren's line of questioning as to why  
10 they shouldn't be involved right from step one.

11 MR. FREIDIN: I understand your concern  
12 and it will be addressed by Mr. Kennedy. I just wanted  
13 to indicate that, let's not forget about the other  
14 evidence which has been led as to the special steps  
15 which have been taken to address MOE's concern to be  
16 notified early about what is being planned.

17 There have been steps which have occurred  
18 as a result of MOE concerns. This particular --

19 THE CHAIRMAN: Well, we won't forget  
20 those steps because should they decide not to  
21 participate in a planning team, those steps are  
22 important as well, that they are notified when the  
23 plans are produced, et cetera.

24 But we are looking at the first phase of  
25 this whole process to see why they can't be involved ab

1 initio if they so choose to be.

2 MR. FREIDIN: I understand your concern  
3 and it will be addressed.

4 MR. CASSIDY: Mr. Chairman, it might be  
5 advisable - and I am simply throwing this out for Mr.  
6 Campbell's consideration - to hear some evidence from  
7 the Ministry down the road as to why their  
8 participation might be beneficial to the process.

9 Following up on Mr. Kennedy's remarks, it  
10 may not be -- it may be hasty for this Board to assume  
11 at the moment that the Ministry's involvement would be  
12 profitable to timber management planning in the  
13 environmental context.

14 MR. CAMPBELL: I think my friend can --  
15 as he wishes to call his case, he can address this  
16 matter if he wants. I will address it in the way in  
17 which I wish to address it.

18 It may or may not involve the calling of  
19 evidence and it may or not may not involve some  
20 questions to this panel as to their comments on whether  
21 certain involvement might not be potentially  
22 beneficial.

23 So it's our case, we will call it.

24 Thank you, Mr. Chairman.

25 MR. CASSIDY: Simply a suggestion, Mr.

1 Chairman.

2 THE CHAIRMAN: Gentlemen, let's have a  
3 peaceful morning.

4 Mr. Lindgren?

5 MR. LINDGREN: Q. Mr. Bisschop, there  
6 was one outstanding undertaking that you provided last  
7 week. You undertook to determine whether or not the  
8 Red Squirrel Road in the Temagami Region was planned in  
9 accordance with the FEPP and, if so, to obtain copies  
10 of the EA checklist. Have you had an opportunity to do  
11 that yet, sir?

12 MR. BISSCHOP: A. We are looking into  
13 providing the information for that undertaking.

14 MR. FREIDIN: We made inquiries, we  
15 haven't got the information yet, Mr. Chairman.

16 THE CHAIRMAN: Very well.

17 MR. LINDGREN: That's fine.

18 Q. Mr. Churcher, to switch from roads to  
19 bugs, I'm not sure there is a relationship there.

20 Could I ask you first to turn to page 608  
21 of the witness statement?

22 MR. CHURCHER: A. Yes, I have it.

23 MR. LINDGREN: This is Exhibit 813B, the  
24 second small volume of the witness statement.

25 Q. Mr. Churcher, can you confirm for me



1 that the first full paragraph on page 608 provides an  
2 overview of some of the factors that the district and  
3 regional committees will consider when they are  
4 analysing pest management options?

5 MR. CHURCHER: A. Yes, that's correct.

6 Q. And, in particular:

7 "The committee will consider the  
8 effectiveness in attaining the project  
9 objective, the approximate costs and  
10 benefits, concerns of MNR programs..."

11 MR. FREIDIN: Where are we?

12 MR. CHURCHER: Approximately halfway  
13 through--

14 MR. LINDGREN: Halfway through the first  
15 paragraph.

16 MR. CHURCHER: --that first paragraph.

17 MR. LINDGREN: Q. They will:

18 "...consider the concerns of other MNR  
19 programs and Crown land users and their  
20 potential impacts on the environment, as  
21 well as preventive or mitigative  
22 measures."

23 Now, we will be returning to this in a  
24 moment but, Mr. Churcher, can you confirm for me when  
25 analysing or selecting a particular option, the

1 committees must also have regard to any policies or  
2 directives or ministerial statements that may be  
3 applicable to that particular option?

4 MR. CHURCHER: A. Yes, that would be  
5 true.

6 Q. So, for example, if the committee is  
7 considering the use of an insecticide, either  
8 biological or chemical, it must have regard for and  
9 comply with the provincial policies, procedures and  
10 strategies that you described in Panel 13?

11 A. Yes, that's true when we are  
12 discussing or considering the option of using an  
13 insecticide.

14 Q. And the committees must also consider  
15 and comply with any ministerial statements such as the  
16 press releases that we discussed in Panel 13?

17 A. Yes, that's true. Although, just to  
18 clarify, those press releases that we discussed in  
19 Panel 13 and also the one that I alluded to in direct  
20 evidence of this panel were released after this  
21 discussion had gone on at the working committee level.

22 Q. Are you on a working committee this  
23 year, Mr. Churcher?

24 A. Yes, I am. I believe the first  
25 meeting of the northcentral regional working committee

1 has been set for October 23rd in Thunder Bay.

2 Q. Perhaps I missed this in your direct  
3 evidence, but have any recommendations been made for  
4 next year's spraying program? It is my understanding  
5 that under the process those kinds of recommendations  
6 will be finalized in the fall of the year?

7 A. Yes, that's correct. As I indicated,  
8 the first meeting is October 23rd, so there has been no  
9 consideration and analysis of options to date, that  
10 will begin on the 23rd. There has been no  
11 recommendation as yet and no decision as to what will  
12 be done next summer.

13 Q. Are you aware of any ministerial  
14 statements made this year respecting the use of BT in  
15 Ontario?

16 A. No, I'm not.

17 MR. LINDGREN: Mr. Chairman, I would like  
18 to file as the next exhibit a statement of the  
19 Honourable Vince Kerrio to the Ontario Legislature  
20 dated June 19th, 1989.

21 THE CHAIRMAN: Thank you. That will be  
22 Exhibit No. 890.

23 MR. HUFF: (handed)

24 THE CHAIRMAN: Thank you.

25 ---EXHIBIT NO. 890: Statement of the Honourable Vince

1 Kerrio to the Ontario Legislature  
2 dated June 19th, 1989.

3 MR. CHURCHER: By this year, I should  
4 clarify it -- before I answered it I should have  
5 clarified. By this year, you meant this calendar year?

6 MR. LINDGREN: Q. Well, this calendar  
7 year.

8 MR. CHURCHER: A. Okay. My ears  
9 sometimes, when I am thinking about insecticide  
10 programs, begin in September and end in June or August  
11 of -- when the program is completed.

12 In my response I guess I'm thinking we  
13 are already into the spray season of 1990 as far as the  
14 planning process is concerned. I'm certainly not aware  
15 of anything that is going to -- would affect our  
16 consideration this fall for planning next year's spray  
17 program if one is deemed appropriate.

18 And can I think of a statement that was  
19 made last spring that would have affected the 1989  
20 spray program; no. My answer would be the same, no, I  
21 can't recall anything without having looked at this  
22 exhibit.

23 Q. Are you telling me, Mr. Churcher,  
24 that your committee would not have regard for a  
25 statement such as this for next year's spray program?



1                   A. As I say, I haven't looked at this  
2 exhibit yet, so I don't know what the statement is.

3                   Q. Okay. Perhaps --

4                   A. But if there was one and if it  
5 deems -- if it is appropriate then, of course, I would  
6 bring this to the attention of the committee on October  
7 the 23rd. On June 19th I believe I was sitting at a  
8 table much like this presenting evidence in Panel 13.

9                   Q. You are correct, sir. Perhaps I will  
10 give you a brief opportunity to review these  
11 statements.

12                  A. We would be looking at page 1368,  
13 Forest Spraying Program--

14                  Q. That's correct.

15                  A. --as opposed to Kindergarten? That's  
16 very informative. Thank you for bringing that to my  
17 attention.

18                  Q. Well, I take it from your statement  
19 then that you are not aware of this particular  
20 statement?

21                  A. No, I was not.

22                  Q. Would this particular statement be  
23 considered by your committee for the upcoming year?

24                  A. Yes, it would.

25                  Q. What weight, if any, would this

1 statement be given by your committee?

2 A. Well, first of all, it's not my  
3 committee, I do not chair it, but I would certainly  
4 bring it to their attention. We would view it, as  
5 stated here, as the policy of the government to use BT  
6 as it has in the past and in the future.

7 However, if - and, again, I hope not to  
8 reopen old wounds, especially mine - but if the  
9 committee members and the experts felt that for  
10 whatever reason, as Mr. Kerrio has indicated here, at  
11 times BT is not as effective as chemicals, and if we  
12 felt that two or three applications were still not  
13 going to work, we would make a recommendation that the  
14 Minister or the government reconsider their policy and  
15 allow the use of chemical insecticides, if we felt that  
16 was the appropriate recommendation to make.

17 Our job is to make the technical  
18 recommendation at a technical level, allow the  
19 ministers and the government to make the decisions  
20 weighing all factors.

21 THE CHAIRMAN: Mr. Churcher, is it usual  
22 in a circumstance like this, because there has been a  
23 change in minister, to have another sort of crack at it  
24 if you felt otherwise? Would you be attempting to  
25 persuade the new minister to reconfirm the government's

1 policy or see whether or not she would take a different  
2 view from Mr. Kerrio's view?

3 MR. CHURCHER: I think that would be a  
4 fair observation, Mr. Chairman, and would also be  
5 something that would be considered also in line with  
6 this at the fall meetings of the working committee.

7 MR. MARTEL: Does the Ministry not have  
8 someone in the Legislature tracking what the minister  
9 says? It is my understanding most ministries do, but  
10 does MNR not have someone in the Legislature who, in  
11 fact, keeps the various departments advised of what the  
12 minister is saying to keep both the minister and  
13 themselves out of trouble?

14 MR. CHURCHER: Yes, Mr. Martel, I do  
15 believe that is the case and quite often when something  
16 like this -- an issue like this does arise in the  
17 Legislature, I do get a copy of the transcript so that  
18 we are aware of what's happening.

19 As I indicated, in June I was here, I  
20 have been spending most, if not all of my time, as the  
21 Board has been, in Thunder Bay and not in my office and  
22 I would not be surprised if maybe a copy of this is  
23 sitting in my in-basket since last June and I just  
24 haven't had an opportunity to see it.

25 THE CHAIRMAN: No doubt this will

1       commence with a furious search of your in-basket as  
2       soon as we rise for the day.

3               MR. CHURCHER: I could add that I am  
4       eagerly anticipating the conclusion of Panel 15 so I  
5       can begin going through my in-basket.

6               MR. LINDGREN: I think we are all in that  
7       position, Mr. Churcher.

8               Q. Now that you have had an opportunity  
9       to review the Minister's statement, perhaps you can  
10      provide me with your understanding of the statement.  
11      What direction does that give you or the committee in  
12      terms of the use of biological or chemical  
13      insecticides?

14              MR. CHURCHER: A. My interpretation  
15      would be that if in 1990 or the spray season of 1990 we  
16      feel that we are in the similar position as we were in  
17      '89 or '88 or '87 or '86 or '85, that the committee has  
18      very little discretionary abilities and that we would  
19      continue to use BT.

20              If, for whatever reason, in 1990 we were  
21      dealing with a different insect or a different  
22      situation and we felt that chemical insecticides were  
23      indeed going to be more appropriate, that the committee  
24      had little choice but to recommend that the chemical  
25      insecticides be used.



1 Q. I take it then, Mr. Churcher, that  
2 you don't interpret this statement as a BT only policy?

3 A. I would interpret it as a BT only  
4 policy insofar as, as I said, the situation continues  
5 in the future as it has in the last few years when we  
6 have used only BT with acceptable results or results  
7 acceptable to the minister or to the government.

8 If, for whatever reason, the situation  
9 changes and, again, it's our expert or technical  
10 opinion that the government should reconsider their  
11 policy, then we would be remiss in our duties if we did  
12 not bring that to the attention of the Minister.

13 Q. So notwithstanding this particular  
14 statement, for whatever reasons it was given --

15 MR. FREIDIN: He has got his answer, Mr.  
16 Chairman.

17 THE CHAIRMAN: Yes. Mr. Lindgren, I  
18 think the witness has sort of indicated what the policy  
19 of his committee would be in terms of whether or not  
20 they would feel bound to use only BTs or to recommend  
21 something else. Obviously, it would be up to the  
22 Minister or the government to authorize the use of  
23 insecticides, we would think, in light of this kind of  
24 statement.

25 And you wouldn't be using insecticides,

1 Mr. Churcher, under any circumstances without  
2 ministerial approval; would you?

3 MR. CHURCHER: That's correct.

4 MR. LINDGREN: Q. Does that statement  
5 apply to both biological and chemical insecticides?

6 MR. CHURCHER: A. Yes, that is correct.  
7 That's the procedure that I presented as evidence in  
8 this panel and that any proposal for an aerial  
9 application of insecticide, be it biological or  
10 chemical, must be presented to the Deputy Minister and  
11 receive his approval.

12 THE CHAIRMAN: And by implication, the  
13 Minister's approval?

14 MR. CHURCHER: Yes, yes.

15 MR. LINDGREN: Q. So if I understand  
16 your answer to this point - and not that I want to  
17 belabor the point - but are you telling me that all  
18 committees are free to consider the use of chemical  
19 insecticides for next year's spray program?

20 MR. CHURCHER: A. Yes, that would be my  
21 interpretation of what is written here.

22 Q. Now, how much weight would your  
23 committee or any committee give a statement like this  
24 in light of the 1985 policy which prefers biological  
25 insecticides where there will be reasonable --

1                   THE CHAIRMAN: Well, Mr. Lindgren, I  
2 think we have been through this. He has basically  
3 indicated that it is a technical approach to a  
4 particular problem. If, on technical grounds, the  
5 committee feels that chemical insecticides should be  
6 used, they might recommend that; in any event, it will  
7 require ministerial approval.

8                   Is that not the position of the  
9 committee?

10                  MR. CHURCHER: Yes, yes. As far as what  
11 weight we would -- perhaps if I can put it differently:  
12 If we felt -- if a discussion come up as: Well, shall  
13 we, for the principle of the point, suggest that we can  
14 use chemicals again just to test the waters again, I  
15 think we would put a great deal of weight on this  
16 statement in saying that there is no point in "testing  
17 the waters", that the government and the Minister at  
18 the time made it very clear what the policy of the  
19 government was and that we would go ahead and continue  
20 proposing -- the use of BT.

21                  However, if we felt that there were good  
22 sound technical reasons why BT was not going to be  
23 effective or just plain would not work - if we were  
24 dealing with an insect that was not susceptible to BT,  
25 obviously it would be ludicrous to propose a spray

1 program that was going to be using BT - then, in that  
2 situation, we would have to propose the use of a  
3 chemical.

4 But if we did not feel we were on strong  
5 technical or expert grounds, we would not make that  
6 proposal to use a chemical insecticide. That's --

7 MR. MARTEL: Could I ask a question?

8 MR. CHURCHER: --what I am trying to get  
9 across. Yes.

10 MR. MARTEL: Why wouldn't you at that  
11 stage, rather than hang yourself, if I could use that  
12 term, simply advise the Minister that BT isn't going to  
13 work and then leave it up to the Minister to decide  
14 whether he recommends that you look at alternatives or  
15 whether you -- why should it be, if I can use the term,  
16 the bureaucrats who decide that you should move to some  
17 alternative?

18 Since it is a political decision, why  
19 shouldn't it be the Minister who both determines to  
20 proceed with it or even to consider it and why  
21 should -- since that's his role?

22 MR. CHURCHER: As Mr. Fleet points out,  
23 in this case it would be her role.

24 MR. MARTEL: Her role in this case, yes.

25 MR. CHURCHER: I think that would be a



1 very good suggestion and, undoubtedly, that would be  
2 our course of action that if, on October the 23rd when  
3 we meet, we decided that there was a new insect out  
4 there or that chemicals were something that would be  
5 done, it would be logical to send a briefing note to  
6 the Minister immediately and say: This is what we are  
7 thinking, and before we waste any more time talking  
8 about this we would like some direction right now.

9               However, time marches on, sometimes we  
10 don't get directions as quickly as we wish and it might  
11 be appropriate to continue planning two options, (a)  
12 and (b), and if they decide not to use chemicals, then  
13 we will obviously go with (a) or whichever.

14               THE CHAIRMAN: But surely, Mr. Churcher,  
15 a Minister would like some direction as to the  
16 alternative. If you tell him -- if you tell her that  
17 she can't use BTs in this situation because they simply  
18 won't work and leave it at that and wait for a response  
19 as to investigate some other alternative, et cetera, is  
20 it not likely that a minister would say: If I can't  
21 use the preferred option, tell me what I can use that's  
22 effective because you are the technical people that  
23 would know that, I am a minister and I really don't  
24 know what is effective or not in terms of an  
25 alternative.

1 I mean, wouldn't a minister expect some  
2 direction as to what the options are and then, as the  
3 political decision-maker, decide on the particular  
4 option?

5 MR. CHURCHER: Yes. You can anticipate  
6 that that would be the next logical question, and I  
7 guess it was in that sense that I was suggesting you  
8 would come up with a plan (a) and plan (b) and if you  
9 don't like plan (a) then this is what you fall back on.

10 THE CHAIRMAN: Well, there might be plan  
11 (c) or (d) or whatever other plans there are.

12 MR. CHURCHER: Exactly.

13 THE CHAIRMAN: All right.

14 MR. LINDGREN: Mr. Chairman, I do have a  
15 few brief questions on this ministerial statement, but  
16 I think this would be an appropriate time for a break.

17 THE CHAIRMAN: Okay. We will take 20  
18 minutes.

19 Thanks.

20 ---Recess taken at 10:10 a.m.

21 ---On resuming at 10:40 a.m.

22 THE CHAIRMAN: Thank you. Be seated,  
23 please. Mr. Lindgren, if we could interrupt you just  
24 for a moment.

25 During this past break the Board was

1 discussing amongst itself the progress or lack of  
2 progress that we think we made last night in terms of  
3 the scoping session for Panel 16 and we have come to  
4 the conclusion that we are dissatisfied with what  
5 progress we think we have made, which is close to zero,  
6 in terms of trying to identify and narrow down the  
7 issues that the opposition might be interested in in  
8 connection with that panel.

9 We started off with 40 or so paragraphs  
10 of the proponent's statement of issues, we ended up  
11 essentially with various parties wanting to address  
12 each and every one of those paragraphs and, frankly, we  
13 don't feel that that is a productive scoping session.

14 So we have decided that we are going to  
15 institute something a little different; and, that is,  
16 we want each of the parties through their counsel to  
17 submit to the Board an identification of the issues in  
18 that panel's evidence that they are in dispute with in  
19 terms of the proponent's evidence so that we can review  
20 those and, on Tuesday after we deal with the other  
21 procedural matters that you are going to address us on,  
22 we can review that panel's evidence once again and  
23 narrow it down.

24 We cannot believe that the parties are  
25 not in agreement with some parts of the proponent's

1 evidence. In fact, some of the parties have indicated  
2 quite clearly that they are in agreement with a number  
3 of paragraphs and then they proceed to indicate that  
4 they want to cross-examine on each and every one or  
5 almost each and every one; and that, to us, is not what  
6 these scoping sessions are intended to accomplish.

7 And we are going to take another crack at  
8 that panel's evidence because we feel, quite frankly,  
9 that we have made virtually no progress whatsoever with  
10 regard to scoping that panel.

11 Mr. Freidin?

12 MR. FREIDIN: I am contemplating that  
13 those documents will do perhaps more than just say that  
14 we disagree with the statement in paragraph such and  
15 such--

16 THE CHAIRMAN: Yes.

17 MR. FREIDIN: --but go a little further  
18 and indicate what it is about the statement that they  
19 don't agree with, what they think is wrong with it or  
20 disagree with.

21 THE CHAIRMAN: Yes. We want the issues  
22 actually identified delineating what they disagree with  
23 so that we have some guidance as to say: That's  
24 something that we'll allow to be addressed in  
25 cross-examination because that's an issue upon which



1 the parties are joined.

2 MR. FREIDIN: As you have indicated on a  
3 number of occasions, Mr. Chairman: What is it you  
4 want. I don't know whether that goes that far, what is  
5 it they want about that issue.

6 THE CHAIRMAN: That's right. It is not  
7 enough -- like we find and, again, the scoping exercise  
8 is a learning curve for everyone, and we look at the  
9 bottom line result and say to ourselves: Is it  
10 effective, is it accomplishing anything, or are we  
11 simply wasting our time and your time.

12 And we feel that what is necessary is for  
13 the parties to take a look at the evidence and set out  
14 what they disagree with, identify the issue and  
15 identify what it is they disagree with, and that is why  
16 they are going to cross-examine, and that is where  
17 their time is going to be spent in cross-examination.

18 And then we can take a look at what is  
19 submitted by the various parties. If there is  
20 duplication, because there is four or five parties that  
21 have identified essentially the same issue and are  
22 interested in cross-examining on essentially the same  
23 points, the same reasons for their disagreement with  
24 the proponent's evidence, then perhaps we can go even  
25 further than that and say: You are not all going to

1 address the same thing, unless of course you can  
2 convince us that your perspective, vis-a-vis your own  
3 client's interest, is different enough that we should  
4 hear it from more than one party.

5 I know you have got problems, Ms.  
6 Swenarchuk, with that area of my comments, but --

7 MS. SWENARCHUK: No, I don't have  
8 particular problems. Since we normally cross-examine  
9 first, the question of whether our cross-examination  
10 duplicates somebody else's doesn't arise, but I would  
11 like to ensure the Board that, as I indicated  
12 yesterday, there is already consultation amongst  
13 counsel and certainly I think we all follow the pattern  
14 of reading the previous cross-examination and not  
15 duplicating.

16 I think there has been one panel which we  
17 cross-examined but were not the first to go and  
18 certainly followed that, and other counsel constantly  
19 discuss with me what had been covered so that  
20 duplication doesn't happen. So I think that goes along  
21 to some extent.

22 With respect to Panel 16, though, I think  
23 that perhaps part of the reason why there is a great  
24 deal of duplication is that Panel 16 describes the  
25 various monitoring initiatives that are new and I think

1 all parties have a real interest in details of those  
2 new initiatives, as well as then attempting to explore  
3 the extent to which they will be implemented and the  
4 extent to which they will be effective.

5 So I think once we have a full  
6 explanation of what's involved in those initiatives and  
7 some additional written material has been provided to  
8 us, I think that you will find that perhaps the  
9 disagreement with the paragraphs really has to do with  
10 needing more details about what the initiatives are and  
11 how they will be implemented and it is not necessarily,  
12 in the usual sense, a repeated disagreement with the  
13 words of the paragraphs.

14 THE CHAIRMAN: Well, we came out of that  
15 session last night not knowing where the parties are  
16 disagreeing with the proponent's evidence. We have no  
17 idea.

18 MS. SWENARCHUK: What I am suggesting is  
19 that we can't tell you that until we hear some  
20 elucidation of these new initiatives.

21 ---Discussion off the record

22 THE CHAIRMAN: Okay. Having considered  
23 your comments, Ms. Swenarchuk, my colleagues point out,  
24 and I think rightly, that we have 40 or so paragraphs  
25 on the table. There is at least three of the parties

1       that indicate they agree with many of those paragraphs  
2       but, nevertheless, they want to address each and every  
3       one of them.

4                       And what we are saying is, it would help  
5       us and it would help the Ministry, we suggest, in terms  
6       of cutting down the evidence if the parties could  
7       clearly identify what areas they want to hear more on,  
8       more specifically than just pointing to a paragraph and  
9       saying: We want more on that. What is it specifically  
10      you want embellished in terms of what is already  
11      provided in the witness statement if, in fact, you are  
12      indicating it is a lack of evidence that is causing the  
13      concern as opposed to a disagreement per se.

14                      MS. SWENARCHUK: In our case that's  
15      primarily the case. I shouldn't really speak for all  
16      the other parties, but I believe that's probably the  
17      case with some of the issues.

18                      THE CHAIRMAN: For instance, as Mr.  
19      Martel points out, a couple of the parties have  
20      responded by saying paragraphs 27 to 40 all inclusive.  
21      Now, that's the response on their statement of issues.

22                      Now, that doesn't really provide much  
23      guidance to the Ministry as to what they should add  
24      within those subject matters covered by those  
25      paragraphs. They have put down what they think is



1 necessary to put down in the witness statement in the  
2 first run.

3           The idea of allowing parties the  
4 opportunity to indicate: We need more or we need  
5 additional clarification, is precisely that, to provide  
6 the Ministry with guidance to say: Look, we don't have  
7 enough in this area and tell us more about such and  
8 such. And what we are saying is, is you should be more  
9 precise and we would like the party to indicate clearly  
10 what it is they seek and, in doing so, they are  
11 defining for the Board and the Ministry the issues upon  
12 which we can consider whether or not it is justified to  
13 have both (a) more direct and (b) cross.

14           It is just too ambiguous as to what the  
15 parties are seeking for the Board to have any  
16 confidence whatsoever that we are, in fact, focusing  
17 upon issues in dispute. We don't know whether we are  
18 focusing upon issues in dispute or not simply by you  
19 indicating that you want to hear more in connection  
20 with certain paragraphs. What is it about those  
21 paragraphs or what is it about the subject matters  
22 identified by those paragraphs that you want to hear  
23 more about.

24           And we feel you should be in a position,  
25 having read the witness statement and knowing what the

1 position of your own clients are in connection with  
2 each issue, what you are seeking. And what we are  
3 asking you to do is to tell us, so that we can review  
4 it and perhaps get some of those 40 issues off the  
5 table, those 40 paragraphs.

6 We can't believe that each and every one  
7 of those 40 paragraphs should necessarily have to be  
8 addressed orally, both in terms of more direct evidence  
9 and in terms of cross-examination, because if that's  
10 the case we haven't, through any of these scoping  
11 exercises, accomplished one thing other than to say:  
12 It's lovely, it sounds good, let's hear it all and  
13 let's cross-examine until our heart's content on  
14 everything possible and that is not productive.

15 So, again, what we are going to ask the  
16 parties to do is to submit to the Board and exchange  
17 amongst yourselves a further delineation of what  
18 exactly you are seeking in terms of additional direct  
19 evidence to be put forward by the Ministry in their  
20 direct and what, if anything, you are disputing with  
21 respect to what you already know; that is, what is set  
22 out in the statement already. And then we will look at  
23 that again on Tuesday after we have heard your  
24 submissions on the other matters.

25 We realize this creates an additional

1       burden on counsel, but we feel that it is absolutely  
2       essential in order to try and focus upon the issues  
3       that are actually in dispute in connection with this  
4       panel's evidence.

5       ---Discussion off the record

6                       THE CHAIRMAN: We would like that  
7       statement to be submitted to the Board no later than  
8       next Tuesday at the commencement of the proceedings so  
9       that we will have a chance to review it during the day  
10      and address it later on in the day.

11                      And I would ask some of the parties to  
12      make the comments of the Board known to Mr. Hanna, Mr.  
13      Edwards and Mr. Campbell and Treaty No. 3 and also I  
14      guess Mr. Hunter.

15                      And I don't know if we can appoint a team  
16      captain here but, Ms. Swenarchuk, could we prevail upon  
17      you to at least advise the other parties who aren't  
18      present of the Board's request?

19                      MS. SWENARCHUK: The five parties you  
20      have listed?

21                      THE CHAIRMAN: That's right. I think  
22      everybody else is in the room that would be covered by  
23      this direction.

24                      Okay. Mr. Lindgren?

25                      MR. FREIDIN: I take it that the Ministry

1 will get copies?

2 THE CHAIRMAN: Yes. This should be  
3 treated in the normal fashion of the statements of  
4 issue, distributed amongst all parties and copies given  
5 to the Board.

6 MR. FREIDIN: Thank you.

7 THE CHAIRMAN: Ms. Swenarchuk, it is  
8 possible that we could have the Board's liaison officer  
9 actually call the various parties who aren't in  
10 attendance and advise them of this and perhaps take  
11 that burden off yourself and let you concentrate on the  
12 submission as opposed to the logistics of bringing it  
13 to everyone's attention.

14 MS. SWENARCHUK: Just to tell you, Mr.  
15 Chairman, I am not sure that we are going to be able to  
16 be here next week. I will provide you with our letter  
17 by Friday to the Board's office.

18 THE CHAIRMAN: Okay, that would be fine.  
19 Thank you, Mr. Lindgren.

20 MR. LINDGREN: Q. Mr. Churcher, I would  
21 like to ask you to return to the ministerial statement  
22 that is found within Exhibit 890?

23 MR. CHURCHER: A. Yes.

24 Q. Now, in Mr. Kerrio's first reply to  
25 Mrs. Grier, in the second sentence he indicates that



1 BT:

2 "...is not nearly as effective as some  
3 other sprays, but we took the initiative,  
4 along with the Ministry of the  
5 Environment, to make absolutely certain  
6 that we would go in that direction."

7 Now, as we have seen this morning, Mr.  
8 Churcher, page 608 of the witness statement indicates  
9 that the committees will consider and must consider an  
10 option's effectiveness.

11 And my question to you, Mr. Churcher is:  
12 Was there any evidence before the committees this year  
13 or last year that suggest that BT has not been  
14 effective?

15 MR. FREIDIN: Mr. Chairman, this, in my  
16 respectful submission, is what we canvassed in Panels  
17 12 and 13. I think to the extent that this exhibit  
18 might give rise to some questions about the process  
19 that Mr. Churcher spoke about, those questions have  
20 been asked.

21 I think now we are getting back into 12  
22 and 13 and, if that's the case, if I am correct, then I  
23 would submit that we should move on to another area.

24 THE CHAIRMAN: Well, Mr. Lindgren,  
25 whether or not the program was deemed effective or not,

1 is not the evidence before the Board that the committee  
2 each year will review what they consider to be the  
3 position that they should put forward to the Minister  
4 and whether it means recommending the use only of BTs  
5 or chemical insecticides, he has dealt with that.

6 MR. LINDGREN: Mr. Chairman, with  
7 respect, when the committee does that they will of  
8 necessity have to look at the relevant effectiveness of  
9 the option and that necessarily involves a look at the  
10 spray program of the current -- I guess of the previous  
11 years.

12 Q. Mr. Churcher has --

13 THE CHAIRMAN: But they do that in every  
14 case. Is that not so, Mr. Churcher?

15 MR. CHURCHER: Yes, that's correct.

16 MR. LINDGREN: And Mr. Churcher has  
17 further indicated that his committee will be looking at  
18 this matter in a couple weeks' time. My question to  
19 him is: Has there been any evidence to suggest that BT  
20 has not been effective? That is a matter that will be  
21 looked at by this committee.

22 MR. FREIDIN: Mr. Chairman, we went  
23 through all the evidence as to what had happened  
24 between 1985 and the present time in Panels 12 and 13  
25 in terms of the effectiveness or non-effectiveness of

1 BT versus chemical.

2 THE CHAIRMAN: Okay. Well, let's just  
3 have a yes/no answer. Have you looked at the  
4 effectiveness of last year's program?

5 MR. CHURCHER: Of the 1989 program?

6 THE CHAIRMAN: Yes.

7 MR. CHURCHER: No, those results have not  
8 been fully analysed to date, but I would imagine that  
9 they would be presented and available towards the end  
10 of October, or certainly early November.

11 MR. LINDGREN: Q. If those results are  
12 not available until November, how can the committee  
13 deal in any meaningful way with the alternatives on  
14 October 23rd?

15 MR. CHURCHER: A. The meeting on October  
16 the 23rd is the first of a series of meetings. At that  
17 point in time we should have a forecast of what the  
18 situation is going to be next year, the districts can  
19 begin determining which areas are -- I believe have  
20 already determined which areas are eligible, but of  
21 those eligible areas which ones, because of the threat  
22 of the infestation, may require spraying. That work  
23 would take a couple of weeks.

24 The final decision would not be made  
25 until -- while the final decision would not be made

1       until after the public information session and the  
2       Deputy Minister makes it, but the final proposals would  
3       not be prepared until about the middle of November.

4               At that point in time we would certainly  
5       have the results from the '89 spray program. There is  
6       no reason to suggest that -- or to think that the  
7       results we obtained in '89 would be substantially  
8       different from '88 or '87 or '86 or '85 or any other  
9       year that we've used BT.

10              A very quick visual observation of the  
11       spray blocks would indicate that we got adequate  
12       protection from the spray program, at least that is  
13       what I understand from the people that were in the  
14       field. Once again, I was not able to view it myself  
15       because I was otherwise occupied here, but the detailed  
16       analysis of the results, such as we looked at  
17       extensively in cross-examination in Panel 13, that is  
18       what I was alluding to when I said that the results  
19       would not be available until early November.

20              Q. Okay, thank you. And Mr. Kerrio's  
21       second reply to Mrs. Grier?

22              A. Yes, I believe at that point he --  
23       it defines what he meant when he said the effectiveness  
24       or BT was not as effective.

25              And in his second reply he says that BT



1 must be ingested, must be eaten by the insect before it  
2 becomes effective. If, for whatever reason, they are  
3 not eating, then obviously it is not going to be as  
4 effective as a chemical insecticide.

5 And I understand from what is written  
6 here that that was what he was referring to in his  
7 first answer.

8 Q. Well, Mr. Kerrio then goes on to say  
9 that:

10 "We may have to spray two or three times  
11 to handle the insects under those  
12 conditions."

13 A. Yes, that is a possibility.

14 Q. Two or three times in the same  
15 season?

16 A. Yes, that's correct.

17 Q. Okay.

18 A. And we have done that in the past.  
19 In fact, that's normal operating procedure for gypsy  
20 moth just because of the nature of that particular  
21 beast.

22 Q. I would now like to explore with you,  
23 Mr. Churcher, the relationship of the protection  
24 planning process and the timber management planning  
25 process at large.

1 A. Okay.

2 Q. Now, I think that to summarize the  
3 evidence to this point, the Ministry has indicated that  
4 because of the unpredictable nature of pest outbreaks  
5 the timber management plan will only identify areas in  
6 which protection activities may be carried out if  
7 required over the next five years?

8 A. That's right. If there is a current  
9 infestation at the point that the timber management  
10 plan is being prepared, or if there is an imminent  
11 infestation or one that is being threatened, then in  
12 the process of preparing the TMP they will identify  
13 those areas that might be protected during the  
14 five-year term.

15 Q. And you have also indicated that the  
16 actual locations of protection activities or operations  
17 will be determined through the annual planning process  
18 that you have described?

19 A. That is correct.

20 Q. Now, my notes from last week indicate  
21 that Mr. Groves stated that protection operations do  
22 not always appear in the annual work schedule,  
23 sometimes these operational plans are completed later  
24 and then are appended to the annual work schedule. Is  
25 that correct, Mr. Groves?

1 MR. GROVES: A. Yes, it's correct in  
2 that there is a revision carried out to the annual work  
3 schedule, not appended to.

4 Q. Now, if a member of the public wanted  
5 to see whether or not protection activities or  
6 operations will be carried out in a particular area of  
7 normal operations, I assume that that member of the  
8 public would look first at Table 4.11 of the timber  
9 management plan? I'm not sure if Mr. Churcher is the  
10 person to address this question.

11 MR. CHURCHER: A. No, I'm not.

12 Q. Table 4.11 lists the silvicultural  
13 ground rules for normal operations.

14 MR. LINDGREN: The Board perhaps should  
15 turn to Exhibit 814 which are the excerpts from the Red  
16 Lake Plan and, in particular, they should look at Book  
17 1, page 53.

18 Q. Now, if protection operations are  
19 anticipated for a particular stand, we would presumably  
20 find some indication of that in the box in the far  
21 right-hand column.

22 Now, I'm not sure who is going to be  
23 addressing this. Mr. Kennedy?

24 MR. KENNEDY: A. Yes. I will provide an  
25 answer to your questions, go ahead.

1                   Q. Well, the initial question was: If  
2 a person wants to determine whether or not protection  
3 operations will be carried out in a particular area of  
4 normal operations, they would first look to Table 4.11  
5 of the timber management plan?

6                   A. Yes. Table 4.11 is intended to show  
7 the protection treatments that would be contemplated  
8 for an area.

9                   Q. Now, turning to you, Mr. Multamaki,  
10 this particular table was prepared for the Red Lake  
11 Plan. Just to save a bit of time, can you confirm for  
12 me that under the right-hand column entitled: Tending  
13 Protection, there are no indications that protection  
14 operations will be carried out on any of the stands  
15 and -- or for that particular year, or from 1986 to  
16 March 31st, 1991?

17                   MR. MULTAMAKI: A. That's correct.  
18 Table 4.11 doesn't show any protection operations.  
19 There were none being contemplated at that point in  
20 time or no identified insect problems at that point in  
21 time.

22                   Q. And in the following year, 1987,  
23 there was, in fact, a spray program that was carried  
24 out on your unit with respect to the jack pine budworm?

25                   A. Yes. I think Mr. Groves is better



1       able to answer that as I think I left in the spring of  
2       '87 prior to summer operations.

3               MR. GROVES:  A.  Yes, I believe that's  
4       correct.

5               Q.  Now, to this point we have been  
6       dealing with protection operations in areas of normal  
7       operations.  What if a member of the public is  
8       concerned about the possible use of insecticides in a  
9       particular AOC, I presume that he would -- he or she  
10      would have to look at Table 4.12 of the timber  
11      management plan; is that correct, Mr. Kennedy?

12              MR. KENNEDY:  A.  That's correct.  If  
13      there was a particular concern raised and there was a  
14      need to address that, there would be a prescription  
15      developed for an AOC and it would show in Table 4.12.

16              Q.  But the fact that no such  
17      prescription occurs in Table 4.12 does not operate as a  
18      guarantee that no protection operations will be carried  
19      out?

20              A.  Could you rephrase that question,  
21      please?

22              Q.  Perhaps I could.  Assume for the  
23      moment that table -- a hypothetical, Table 4.12  
24      contains no reference to the need to prohibit spraying  
25      in a particular AOC, that is not a guarantee that no

1 protection operations will be carried out at some point  
2 during the term of the plan?

3 A. I'm sorry, I'm still having trouble  
4 with your question. First of all, we are talking of  
5 insecticide programs only when you say AOCs?

6 Q. No, we are talking about protection  
7 operations at large. Now, there may be a prescription  
8 in Table 4.12 indicating that, for example, no spray  
9 will occur on a particular AOC?

10 A. Yes, it is possible that there could  
11 be a prescription developed that there would be an  
12 indication of no spray being permitted within an area  
13 of concern. When I say spraying, I am referring to a  
14 protection program.

15 Q. And yet despite that statement there  
16 is a possibility that the spray could, in fact, occur  
17 in that AOC at some later point?

18 A. No. I would say if the prescription  
19 had been laid out that there would not be a spray, an  
20 insecticide spray for a particular AOC, then the  
21 individuals developing the project description for that  
22 particular year would have to take that into account  
23 during that program.

24 MR. MULTAMAKI: A. Perhaps I could help  
25 out with an example of where that's demonstrated in the

1 Red Lake Plan. If you turn to page 76, you will notice  
2 under Maintenance, that's still Table 4.12, it clearly  
3 shows that under area of concern No. 14 that protection  
4 is an alternative and, in fact, will be applied as  
5 required. And, in fact, the same is -- on the  
6 following page, on 77, is available for area of concern  
7 No. 17.

8 Q. Now, the statement is to the effect  
9 that protection may or may not occur depending if it's  
10 needed or not. So the spray may occur, it may not  
11 occur?

12 A. That's correct, depending on whether  
13 or not it, in fact, is required.

14 Q. Now, if a member of the public wants  
15 more certainty, I take it then that he will have to  
16 review each annual work schedule that's prepared over  
17 the course of the five-year plan?

18 A. I would expect that if he has a  
19 concern at the five-year level and has come in, looked  
20 at Table 4.12 and said: You know, I have got a problem  
21 with spraying in this specific area of concern, what  
22 are you doing; for example, he looks at area of concern  
23 No. 17 and identifies it as an issue or a concern to  
24 himself, it would be addressed at that point.

25 Certainly if a member of the public were

1 to come in and say: Well, where are you spraying this  
2 year, that's a different issue again.

3 MR. MARTEL: How can you determine five  
4 years in advance whether you are going to require  
5 spraying?

6 First let me put it in two ways, for  
7 insecticides and then follow-up with pesticides or  
8 herbicides, if you want, but could we deal with it in  
9 two parts. You can't predict five years in advance, I  
10 don't think, that you might need spraying somewhere  
11 down the road.

12 MR. CHURCHER: Yes, that's the point  
13 entirely, that you can -- for instance, if we had a  
14 spruce budworm infestation that may last six or seven  
15 years in an area and you knew that it was within a  
16 couple of years of encroaching in the unit, then  
17 chances are that it was going to cover the unit during  
18 the five-year plan and you may contemplate a spray  
19 program.

20 And if it arrived within the five years,  
21 if you decided on a spray program, then the best you  
22 can do is identify all those areas that, according to  
23 the procedure, the commercially operable forest and the  
24 high value forest that we have already talked about,  
25 would be considered for protection, but you certainly



1 five years in advance or even a couple of years in  
2 advance indicate that this area is going to be sprayed  
3 or this area is not going to be sprayed. The most you  
4 can do, as Mr. Multamaki pointed out, was indicate  
5 protection as required.

6 Now, I would -- in response to your  
7 question, Mr. Lindgren, I would think that if a member  
8 of the public came in and expressed an interest about  
9 whether or not a certain area was going to be sprayed  
10 or not for this particular year, then the response  
11 would be -- or an answer would be provided, but also  
12 the person's name would be added to the mailing list of  
13 the district as someone that has expressed an interest  
14 in protection programs and would receive a written  
15 letter identifying that the district was planning a  
16 protection program and would receive a written  
17 invitation to the public open house -- or the public  
18 information centre.

19 That's my understanding of how the  
20 district generates the mailing list and that was part  
21 of the planning procedure.

22 MR. MARTEL: The gypsy moth, though - I  
23 am having difficulty with this - the gypsy moth in '86,  
24 you had no real previous warning to that; did you, in  
25 terms of trying to forecast that or put it in a

1 five-year plan, it just came up in an area where you  
2 didn't think you were going to have problems, if I  
3 recall correctly.

4 MR. CHURCHER: Yes, that's essentially  
5 it. It being an introduced pest with no natural  
6 enemies, it cropped up in '81 for the first time and  
7 then it expanded quite rapidly throughout southern  
8 Ontario and peaked in 1986 I believe, yes.

9 We had had very little experience with  
10 that particular insect and it is a very difficult  
11 insect to deal with, to try to predict with any  
12 certainty where it is going or how big it is going to  
13 be.

14 MR. MARTEL: So the only way you could  
15 cover that is this sort of wording, protection as  
16 required. Surely you are going to have a lot of plans  
17 then with protection as required and someone is going  
18 to have to follow them all through then to ascertain  
19 whether or not.

20 MR. CHURCHER: But there again, if a  
21 member of the public was concerned about the protection  
22 program specifically, then I would imagine that he  
23 would be -- he or she would then be receiving specific  
24 notification that a protection program is considered  
25 for whatever insect in this particular year and their

1        comments would be solicited for that particular program  
2        in that particular year and any subsequent year that a  
3        program was being contemplated.

4                    It would not necessitate that they go  
5        into the district office every year to check the annual  
6        work schedule. I don't think the AWS is the place that  
7        they should be going to to get details of the spray  
8        program.

9                    That's the purpose of producing a project  
10       description with all those details and having it  
11       available at the district office, for the public to  
12       review and inspect.

13                   MR. LINDGREN: Q. Well, Mr. Churcher,  
14       can I then direct your attention to page 555 of the  
15       witness statement which is the annual work schedule for  
16       the Red Lake Plan. Maybe you don't have to turn to it,  
17       I will just read it into the record. There is a  
18       statement on page 555 that:

19                   "As the jack pine budworm is in decline  
20                   on the Red Lake Crown Management Unit,  
21                   there will be no aerial spray program  
22                   for insecticides."

23                   So the matter can be addressed in an  
24       annual work schedule?

25                   MR. CHURCHER: A. I am not suggesting

1       that it should not be discussed there at all. I was  
2       simply suggesting that if a member of the public wanted  
3       specific detailed information about a spray program and  
4       whether a particular area of concern was going to be  
5       protected or not, then the place to look for that  
6       information is more appropriately in the project  
7       description than looking for details in the annual work  
8       schedule. That was the point I was attempting to make.

9               Q. I assume that if no protection  
10       operations are planned in an annual work schedule, we  
11       can expect to see a statement like that?

12              A. If there was no insect infestation  
13       and there had been no consideration obviously for a  
14       protection program, then I don't think it would be  
15       appropriate to put in a statement that we are not going  
16       to be doing any spraying. If there is nothing to  
17       spray, then it is rather redundant to say that we are  
18       not going to spray.

19              An annual work schedule, as I understand  
20       it, is to indicate what you are going to do, not what  
21       you are not going to do.

22              Q. Well, this AWS just indicated what  
23       they would not be doing.

24              A. I would assume that was because  
25       there had been consider --



1                   MR. FREIDIN: To put it into context, if  
2                   you read the paragraph above it, it indicates that  
3                   there will be aerial spraying in younger plantations  
4                   so, therefore, they may not want to put on an  
5                   additional informative statement.

6                   MR. LINDGREN: I think that statement,  
7                   Mr. Freidin, relates to the herbicide spray for the  
8                   tending program, not insecticides.

9                   MR. CHURCHER: I would assume the  
10                  statement is there because there was a jack pine  
11                  budworm infestation in and around the area, people were  
12                  aware of that. Quite possibly it may have even been  
13                  considered on that unit in that particular year, but  
14                  for whatever reason, they decided not to have a spray  
15                  program and the author felt it was necessary to  
16                  indicate that we are not going to spray in this unit in  
17                  this particular year for this reason.

18                  But if there was no infestation and there  
19                  had never been any consideration of a spray program, I  
20                  don't think it's necessary for the author to say:  
21                  Well, we are not going to spray.

22                  MR. GROVES: If I can confirm that, that  
23                  was the purpose of that statement in that there had  
24                  been previous sprays on that unit and that the author  
25                  just wanted to make it aware to whoever was reading it

1       that there would not be an operation this year. It was  
2       for information sake.

3               MR. LINDGREN: Q. Now, if I was a member  
4       of the public reading that statement, can I take that  
5       as an absolute guarantee that there would be no  
6       spraying whatsoever?

7               MR. GROVES: A. That would be the case  
8       unless there was a decision made after that, which then  
9       a revision, and that person would then be notified that  
10      the decision had been changed.

11              MR. CHURCHER: A. Just by the timing of  
12      the writing of the annual work schedule and when it  
13      comes in effect in April 1st, if a spray program was  
14      going to be conducted for jack pine budworm, for  
15      instance, in June, then we would definitely know by  
16      April the 1st whether or not we were going to be doing  
17      it. We would have had six months' worth of planning  
18      that would have gone on prior to that fact.

19              So the author, yes, and with a great deal  
20      of certainty - as in a hundred per cent certainty -  
21      could write that statement. The only exception would  
22      be if, as Section 9 of Appendix 3 indicates, if there  
23      was an infestation that suddenly cropped up that had  
24      not been noted previously or that we were not aware of  
25      that the Ministry felt needed protection in that

1 particular year. But that would be the only exception  
2 when, on April the 1st, you would not know whether or  
3 not there would be a spraying program that summer.

4 Those exceptions are rare. In my five  
5 years with the Ministry I have never seen that case.

6 Q. But where that case does arise, a  
7 revision to the AWS would be necessary and the person  
8 presumably would have to read the project plan to  
9 determine whether or not his AOC was going to be  
10 sprayed?

11 A. If that were the case, yes, there  
12 would be a revision to the annual work schedule. I  
13 indicated in my lead evidence in that situation that  
14 there would be a public notice of some sort. I would  
15 suggest that letters to the public -- members of the  
16 public that have expressed an interest in protection  
17 planning in the past, they would receive a written  
18 notification probably with a map outlining exactly  
19 where that spray block is going to be, as the Chairman  
20 suggested would be appropriate, in my direct evidence.

21 Again, in this situation we would  
22 probably be talking about very small discreet areas, so  
23 it would not be onerous to include a map showing where  
24 that specific spray block or those few spray blocks  
25 would be, and I don't think it would be necessary for a

1 member of the public to read the entire project  
2 description. If he or she so desired, of course, it  
3 would be available for them to do that.

4 Q. Is the Ministry contemplating  
5 producing summaries of the project plans and make those  
6 available to the public?

7 A. A project description is not a huge  
8 document, they are mainly made up of maps. The written  
9 version is very short, a matter of five or six pages,  
10 if I recall.

11 Q. Well, Mr. Davison, your Terrace Bay  
12 Plan appears to span seven volumes. Would it be  
13 advisable to produce a summary of that?

14 MR. DAVISON: A. If you refer to Exhibit  
15 813B, page 741 -- 741 to 751 is just that, it's the  
16 project description in that summary-type form. That's  
17 the entire project description. The other information  
18 you referred to in the seven volumes is a lot of  
19 background material. This is the entire project  
20 description.

21 Q. While we are at that portion of the  
22 witness statement, can I ask you to turn to the public  
23 notices that are reproduced at pages 761 and 762. Can  
24 you confirm for me that those notices contain no key  
25 maps, or virtually no indication in a textual form as



1 to where the spraying will take place?

2 A. That's correct. And I think we  
3 mentioned that we didn't feel it was very appropriate  
4 to put in a map form location of the spray areas, that  
5 we would put that in, in the written notices sent to  
6 the affected parties, we would include a map.

7 And that Mr. Churcher mentioned that in  
8 his lead evidence, that there would be revision to  
9 Appendix 3 where it refers to that.

10 Q. Mr. Churcher, perhaps if I could  
11 return to you. I am still interested in the reason why  
12 more certainty about protection operations can't be  
13 provided to the public up front in the timber  
14 management plan.

15 In Panel 13 - I don't want to belabor  
16 this point - but in Panel 13 you've indicated that the  
17 life cycles and the population trends of the major  
18 pests are fairly well known to the Ministry?

19 MR. CHURCHER: A. Some are and some  
20 aren't. Jack pine budworm, for instance, is a very  
21 irregular pest that does not have a typical cycle such  
22 as spruce budworm does.

23 Q. Well, the spruce budworm does have  
24 the 20- to 30-year cycle and its population seems to be  
25 on the decline since 1970 -- or in the 70s?

1                   A. By and large, although the hot, dry  
2                   summers that we have experienced in the last two years  
3                   have put a temporary halt, if you will, on that  
4                   decline. It is something that we couldn't have  
5                   predicted four years ago, couldn't have predicted three  
6                   years ago, I couldn't have predicted two years ago.

7                   In June when I was presenting that  
8                   evidence I couldn't have predicted exactly what area  
9                   would have been infested the following -- or would have  
10                  been able to be mapped the following month. And  
11                  without that knowledge then we can't determine exactly  
12                  the size of the spray program and exactly what blocks  
13                  are going to be protected in 1990.

14                 Q. But you do have a fairly good idea of  
15                 what blocks are susceptible to the infestation?

16                 A. Yes.

17                 Q. And so, for example, the 1987  
18                 insecticides policy which is reproduced at page 614  
19                 requires the districts to annually update a permanent  
20                 inventory of susceptible, high value and commercially  
21                 operable forests. Is that the case?

22                 A. Yes. I believe that's what the  
23                 procedure states, yes.

24                 Q. And this is done on FRI maps?

25                 A. I believe so. I'm not entirely

1 certain what scale of map the districts use to do that,  
2 but...

3 Q. But you agree with me that a stand's  
4 susceptibility to an outbreak would not change  
5 dramatically from year to year?

6 A. That's true, yes. And the updating  
7 that was proposed in the procedure is simply looking at  
8 the stands that have been harvested previously and  
9 obviously taking them out of the list of susceptible  
10 stands and adding any other stands in that have reached  
11 the 40 age-class or 50 or 60 year or whatever the cut  
12 off age-class the district is using to define  
13 susceptibility.

14 Q. And once the timber management plan  
15 is finalized, you have a fairly good idea of what  
16 stands are eligible for harvest?

17 A. Yes, that's true.

18 Q. And in addition to this FRI mapping  
19 that's carried out, the Canadian Forestry Service  
20 carries out their annual egg mass surveys?

21 A. That's correct. They do their  
22 defoliation surveys and map exactly what area has been  
23 infested and then also do egg mass surveys to determine  
24 what their best guess is for what is going to be  
25 infested next year.

1                   Q. Now, in light of these various forms  
2 of information which are amassed and updated and  
3 analysed annually, why can't there be more specificity  
4 in the timber management plan as to the actual location  
5 of protection operations?

6                   A. The point that you made earlier that  
7 the eligible -- those areas that are eligible that  
8 would be considered for a protection program, that is  
9 what is going to be identified in the timber management  
10 plan. But for those various other matters that you  
11 have just named, the defoliation maps and the egg mass  
12 surveys that are done on an annual basis, to use your  
13 words, that's why we can't make a prediction five years  
14 from now. We need that other information that is only  
15 collected on an annual basis.

16                   Perhaps I missed the point of the  
17 question and, if I did, I apologize.

18                   Q. Well, perhaps to clarify matters I  
19 can refer you to page 607 of the witness statement, and  
20 under the heading: Selection of Areas, the first  
21 sentence reads as follows:

22                   "At the same time as the FIDS unit staff  
23 are collecting and analysing the  
24 background biological information, the  
25 Working Committee compiles the areas



1 eligible for protection operations, if  
2 they were not already identified in the  
3 timber management plan..."

4 A. Yes.

5 Q. That tells me that these areas that  
6 are eligible for protection operations are not always  
7 referenced or referred to in the timber management  
8 plan?

9 A. That is a possibility. A good  
10 example would be a jack pine budworm for instance,  
11 which I indicated is not a particularly predictable  
12 insect, it does not have a nice regular 30- or 40-year  
13 cycle such as spruce budworm, and there may be no  
14 indication at the writing of the timber management plan  
15 that there is going to be a jack pine budworm  
16 infestation in that unit during that five years. Jack  
17 pine budworm infestations appear, last for a couple of  
18 years, and they disappear.

19 So if at the writing of the plan there  
20 was no indication there would be an infestation, then  
21 there would be no reason why the author of the plan  
22 would include an eligibility map. And two years into  
23 the plan when there was a jack pine budworm  
24 infestation, then it would be necessary for the working  
25 committee to compile that list of eligible stands.

1 That's why that sentence is worded that way.

2 In the case of a spruce budworm  
3 infestation, which is of longer duration, perhaps a  
4 little more predictable, then the author of the plan or  
5 the team that produces the plan can look five years  
6 ahead and say: We may be involved in a protection  
7 program during the term of this plan, let's come up  
8 with the eligibility map as stipulated in the  
9 procedure.

10 THE CHAIRMAN: Mr. Lindgren, would you  
11 mind summarizing the point you are trying to make or,  
12 alternatively, move on?

13 MR. LINDGREN: Okay. I am trying to  
14 determine whether or not in the Ministry's view it  
15 would be a good idea to give members of the public a  
16 better idea as to the actual location of protection  
17 operations in advance rather than requiring them to  
18 take, as I see it, extraordinary efforts to keep  
19 abreast of the situation.

20 THE CHAIRMAN: Well, the Ministry has  
21 indicated, I think through the answer of this witness  
22 and in other panels, that certain things can be  
23 identified in terms of the timber management plan,  
24 vis-a-vis when it is written; other things have to be  
25 identified at the annual work schedule level and they

1 have given the reasons why that occurs.

2 Now beyond that, I think that's their  
3 position.

4 MR. LINDGREN: One final question then,  
5 Mr. Chairman.

6 Q. The Ministry has been able to project  
7 into the future what the herbicide spraying program  
8 will likely entail, and this is found in the forecast  
9 tables of Table 4.19.

10 MR. CHURCHER: A. Yes, that's my  
11 understanding and there are reasons for that.

12 Q. That very may well be. Would it be  
13 possible or reasonable for the Board to require these  
14 forecast tables to include a forecast of possible  
15 protection operations to the extent that that can be  
16 identified during the preparation of the plan?

17 A. I think any forecast that would be  
18 made at the preparation of the plan would be, at best,  
19 numbers pulled from thin area that would have no --

20 Q. But isn't that the purpose of the  
21 forecast tables, to provide some sort of advance  
22 notice?

23 A. Yes, but I would hope that the  
24 forecasts are going to have some kind of basis on  
25 reality or that they are going to be a number that was

1 going to be within some degree of certainty or some  
2 realm of possibility; whereas a forecast for an  
3 insecticide program, five or four or even three years,  
4 or, as I indicated, two or one year from the authorship  
5 of the plan may or may not have any resemblance to  
6 reality at that particular time.

7 In your response to the Chairman, I  
8 wondered if maybe why we are not clicking here is --  
9 the reason why we said that there should just be a  
10 mapping of the eligible stands if there is a threat or  
11 if there is an infestation is because it would be  
12 possible in some units that if they are going to map  
13 all of the stands that would be eligible for spruce  
14 budworm if there was spruce budworm, and jack pine  
15 budworm if there was jack pine budworm infestation, and  
16 forest tent caterpillar if there was a forest tent  
17 caterpillar, and large aspen tortrix, and gypsy moth  
18 and another five or ten major insect species that could  
19 possibly infest that unit over the next five years,  
20 that is unreasonable to expect the district to go to  
21 that amount of work on the off-chance that perhaps one  
22 of those fifteen insects may infest the unit during  
23 that five-year period.

24 And so that was why it was worded such  
25 that, if you know there is going to be an infestation



1 or you feel certain there is going to be an infestation  
2 of a particular insect species, then go ahead and do  
3 the mapping. And if you don't feel there's -- or you  
4 don't know there is going to be anything, then it is  
5 not required to do the mapping.

6 Now as I indicated, like jack pine  
7 budworm, if it appears halfway through the plan, then  
8 you have got to do the mapping at that point in time.  
9 Does that clarify anything?

10 Q. Well, it does, and I agree that it is  
11 unreasonable to expect the Ministry to produce a  
12 forecast for every possible bug that might appear in  
13 the district over the next five years. However, with  
14 respect to the spruce budworm, it is my understanding  
15 that the Ministry does have a fairly good idea of the  
16 susceptibility of the stands in the area?

17 A. Yes.

18 Q. It has a fairly good idea as to  
19 whether or not the budworm is moving into the area,  
20 moving out?

21 A. That's correct.

22 Q. Up or down. Given that level of  
23 information or that degree of information, could that  
24 not be projected in a table in Table 4.19?

25 THE CHAIRMAN: Mr. Lindgren, isn't the

1 purpose of forecasting or projecting ensuring that  
2 people who are interested in whether or not an area is  
3 going to actually be sprayed (a) have notice of that in  
4 advance and, (b) have an opportunity to make  
5 submissions as to whether or not it should occur.

6 And if the procedure is such that when  
7 they get down to the actual spraying that may or may  
8 not occur, that the procedures are in place so that  
9 people are notified in advance of the spray taking  
10 place and given an opportunity to object if they feel  
11 that they should be objecting to it, either to the type  
12 of materials being used to spray or to the fact that  
13 there should be no spraying whatsoever near a  
14 particular area of concern, and as long as the  
15 procedures are in place that people will actually be  
16 notified before it occurs and in advance of it  
17 occurring and given an opportunity to object, why is  
18 that not the major purpose behind public notice in this  
19 regard?

20 MR. LINDGREN: Well, I take your comments  
21 into account, Mr. Chairman. I am just merely trying to  
22 determine whether or not some sort of advance notice  
23 could be provided at the five-year level as opposed to  
24 the ten-year level.

25 THE CHAIRMAN: Well, the Ministry has

1 given a variety of reasons why they feel it impractical  
2 at the five-year level, other than to indicate in  
3 certain cases where they know something is going to  
4 occur at the time the plan is written, of so indicating  
5 that.

6 MR. LINDGREN: Precisely. And where that  
7 occurs, why can't that be reflected in a forecast  
8 table?

9 MR. CHURCHER: Insofar as an eligibility  
10 map is included in the plan, that would be fine. We  
11 could include an area figure adding up all of those  
12 areas, the hectares that would be included there and we  
13 would come out with a ludicrous figure of 750,000  
14 hectares in one unit. And we would not in any way,  
15 shape or form ever consider spraying 750,000 hectares.  
16 We do not spray everything that is susceptible.

17 THE CHAIRMAN: And what does that tell  
18 somebody looking at the plan, that 750,000 hectares may  
19 possibly be sprayed, it is unlikely they would all be  
20 sprayed, and they really wouldn't know whether any  
21 hectares near the person interested would be sprayed  
22 until you get to the annual work schedule; is that  
23 correct?

24 MR. CHURCHER: That is the point I was  
25 trying to make, yes.

1 MR. LINDGREN: Well, perhaps if we flip  
2 that around. If there is no such indication in the  
3 forecast table, then perhaps the person could take it  
4 as a relative given that perhaps no protection  
5 operations are likely in the next five years.

6 THE CHAIRMAN: But that may change, that  
7 may change two years into the plan.

8 MR. CHURCHER: And that's why the purpose  
9 in the annual protection planning process we talked  
10 about is to have its own separate public information  
11 centres, with its own separate mailings, with its own  
12 separate public review process to make sure that people  
13 and the public are aware that a protection program is  
14 going to occur the follow summer.

15 MR. FREIDIN: Mr. Chairman, not only the  
16 opportunity for public input, but in the case of the  
17 aerial application of insecticides, provisions for  
18 bump-up if felt appropriate.

19 MR. LINDGREN: Q. Perhaps we can move on  
20 to page 617, Mr. Churcher. This is the 1987 Aerial  
21 Application of Insecticides for Forest Management in  
22 Ontario Policy.

23 MR. CHURCHER: A. Yes.

24 Q. Now, at page 617 under Section 5,  
25 Valuable Area Identification, the last sentence



1 indicates that:

2 "Each district will be responsible for  
3 establishing its own appropriate  
4 priorities in rating the relative  
5 importance of the identified stands."

6 A. That's correct.

7 Q. What is the rationale for that  
8 direction, given the need to coordinate programs and  
9 results among districts and regions?

10 A. What that sentence means is that in  
11 one particular district the timber value may be the  
12 important value that they are concerned about and so,  
13 therefore, the blocks or the eligible stands or the  
14 commercially operable forests would be of higher  
15 importance than, say, the plantations.

16 In another district the plantations may  
17 be the important thing and so, therefore, it would  
18 receive a higher rating, and in yet other districts a  
19 wildlife habitat may be the most important, or a  
20 tourism value may be the most important.

21 It is an attempt to allow the districts  
22 to include the flexibility that they require to conduct  
23 a program. Then the whole point of prioritizing it is  
24 that if we get bad weather or if, for whatever reason,  
25 we have to curtail the program halfway through, that

1       they will have sprayed these blocks in order of  
2       priority.

3                       So that they would then go in and start  
4       with their No. 1 priority spray blocks and treat that  
5       block, and the block that is No. 75 with the lowest  
6       priority, if we don't get to that for whatever reason  
7       reason beyond our control, or even within our control,  
8       if we don't get around to that block, then so be it.

9                       Q.   Given that the protection plan or the  
10       protection program is seen by the MNR as necessary to  
11       safeguard future wood supply on a provincial basis,  
12       would it be reasonable to require the MNR to produce  
13       some form of uniform priority to guidelines to assist  
14       in the rating of the importance of stands?

15                      A.   No, I don't think that is reasonable  
16       at all.   Again, there has to be some degree of  
17       flexibility at the district level.

18                      Now, as part of the evidence that I  
19       presented in Panel 13 was an example of an integrated  
20       resource -- or an integrated pest management objective,  
21       specifically the spruce budworm strategy, and in that  
22       spruce budworm strategy it outlines some general  
23       ratings or priorities and it, in a general sense,  
24       indicates what order on a provincial basis or what  
25       order of priority things should be addressed.

1                   However, even there there is an  
2                   indication that local conditions, district level  
3                   conditions may indicate that a more appropriate  
4                   priority system should be used.

5                   Q.    Okay.

6                   A.    And if I recall off the top of my  
7                   head it does indicate that timber values would receive  
8                   a high priority.  That is not to say that a district  
9                   may, for whatever reason, determine that it should  
10                  receive a lower priority and some other value take  
11                  precedence.

12                  Q.    Can I ask you to turn to page 606.  
13                  The first paragraph indicates that:

14                       "The following explanation of activities  
15                       and responsibilities will use the most  
16                       common practice of the establishment of a  
17                       Regional Committee.  If the size of the  
18                       pest problem does not warrant this, the  
19                       issue would remain within the District,  
20                       with a District Working Committee being  
21                       established."

22                  A.    Yes.

23                  Q.    Just a few preliminary questions on  
24                  that.  Firstly, who makes the initial determination  
25                  that a problem is sizable enough to warrant the

1 establishment of either a district or a regional  
2 working committee?

3 A. I would suspect that that would  
4 probably lie with the regional director. I believe the  
5 procedure indicates the regional director is the one  
6 that strikes the regional working committee. If there  
7 is only one district involved, then for all intents and  
8 purposes it would just be the district or the staff of  
9 the district would comprise the committee.

10 In 1988 or preparing for the 1988 spray  
11 program, for instance, if I remember correctly, the  
12 only spraying that was done in this region happened to  
13 be in the Thunder Bay District, and so the working  
14 committee, although it was termed a regional working  
15 committee - and I believe someone from the regional  
16 office did chair it - the only staff that were involved  
17 in that committee were from the Thunder Bay District  
18 besides, of course, the regional biologist and myself  
19 and a representative from the Canadian Forestry  
20 Service.

21 We didn't have representatives from every  
22 district in the region because they were not  
23 contemplating a spray program, just the one district.

24 Q. Well, assuming that the problem is  
25 sizable to warrant either a district or a regional



1 working committee, page 606 goes on to describe the  
2 membership of the working committees?

3 A. Yes.

4 Q. Halfway through the paragraph it is  
5 indicated that representatives of the districts and  
6 specialists may be involved. Essentially the committee  
7 is multi-disciplinary; is that correct?

8 A. That's correct.

9 Q. Now, in page 2 of Appendix 3 of the  
10 Timber Management Class EA there is a statement to the  
11 effect that the district working committee normally  
12 includes the same planning team that is involved in the  
13 general timber management planning process.

14 I'm not sure if it is necessary for you  
15 to turn to that, but I am wondering if those people  
16 receive any special training or education in terms of  
17 protection matters?

18 A. The people involved in the--

19 Q. The planning team.

20 A. --working committees that we are  
21 talking about here?

22 Q. The district planning team members  
23 who also form -- who also are members of the district  
24 working committees?

25 A. Yes. In Panel 13 we talked quite

1 extensively about the training programs that we have  
2 put in place to train Ministry staff that are involved  
3 in these programs. Quite often the district staff that  
4 are involved in the committees are the project  
5 supervisors, the people that have or are going to  
6 conduct or oversee the spray program. The role of the  
7 membership from the district is to provide that  
8 district and local knowledge.

9 The particular entomological expertise is  
10 provided by myself or somebody from my section, the  
11 expertise on where the pest has been and where the pest  
12 is going is provided by someone from Forestry Canada,  
13 the forest insect and disease survey.

14 Q. Okay. Then page 606 goes on to  
15 indicate that, in fact, the CFS is represented on the  
16 committee, the MNR's Pest Management Section is  
17 represented and the forest industry?

18 A. Yes.

19 Q. What is the rationale for including  
20 the forest industry but excluding other major  
21 stakeholder groups?

22 A. The rationale for including the  
23 forest industry is that they provide the information on  
24 their particular FMAs or their particular licences as  
25 to what becomes eligible, what satisfies the

1 requirements of eligibility for a spray program.

2 In the case of an FMA, it is the  
3 responsibility of the Ministry to conduct the  
4 insecticide -- aerial insecticide spray programs on all  
5 Crown land whether it's under licence to an industry or  
6 whether it's a Crown unit or whether it's in an FMA or  
7 whatever, and --

8 THE CHAIRMAN: Mr. Lindgren, I think we  
9 went into this to some extent in previous panels.

10 MR. LINDGREN: With respect to the  
11 planning team itself and not with respect to the  
12 working group committee.

13 MR. FREIDIN: Mr. Chairman, if I just  
14 might, apropos of the comments that you have made in  
15 the past about scoping of issues - if I am wrong, then  
16 I would like to be corrected - but I have just looked  
17 through some of the documentation regarding this panel,  
18 in particular the statement of issues filed by Forests  
19 for Tomorrow, there is no reference in there that they  
20 had any objection to the statement or the evidence in  
21 relation to this matter. There is no indication they  
22 wanted to hear any evidence about these matters.

23 In fact, it says that they intended to  
24 cross-examine on the issues raised by the above-noted  
25 paragraphs, none of which are the paragraphs in

1 relation to this subject matter.

2 The interrogatories -- I have looked  
3 through the interrogatories and my quick review does  
4 not indicate that there is anything asked about this  
5 subject matter and the following issues. And the  
6 following issues in my quick purusal, again, does not  
7 refer to these specific paragraphs. In fact, there is  
8 reference to specific paragraphs in relation to these  
9 following matters.

10 I don't know, I just raise it to bring it  
11 to your attention.

12 THE CHAIRMAN: Why we are dealing with  
13 this, Mr. Lindgren?

14 MS. SWENARCHUK: Perhaps Mr. Freidin  
15 could be more complete in his description of the  
16 statement of issues and refer to the opening paragraphs  
17 in which I have no doubt that statement as all our  
18 other statements have indicated clearly, as we  
19 indicated to the Board at the time the statement of  
20 issues process was commenced, that the issues filed are  
21 subject to those issues which may be identified prior  
22 to the hearing of issues.

23 MR. FREIDIN: Well, there is no question  
24 it does indicate:

25 "Without prejudice to a right to raise



1                   such further issues as we may identify  
2                   prior to or during the hearing."

3                   There was no evidence, I don't believe,  
4                   which came as a surprise in relation to the subject  
5                   matter of the panel and it's, again, not -- well..

6                   THE CHAIRMAN: Well, again, if the  
7                   scoping process is going to serve any useful purpose it  
8                   certainly is not going to benefit the process to  
9                   exclude areas from your concern during the scoping  
10                  process and bring them back in when you stand up to  
11                  cross-examine.

12                  Now, this is an area that we heard some  
13                  evidence on in earlier panels. If you have got a  
14                  specific and precise question, Mr. Lindgren, regarding  
15                  this area, why don't you just put a very simple  
16                  question to the panel and let them answer it.

17                  MR. LINDGREN: I will do that, Mr.  
18                  Chairman. But with respect to your comments, I would  
19                  just like to indicate that this line of questioning is  
20                  related to the questions or the issues that have been  
21                  raised with respect to the participation or  
22                  non-participation of the Ministry of the Environment  
23                  and that was an issue that clearly arose this week,  
24                  last week and not during the scoping session.

25                  THE CHAIRMAN: Okay. So If your question

1 is essentially - because it refers in this paragraph to  
2 the fact that the Ministry of the Environment may be  
3 represented on the committee - if your question is  
4 going to be: Are they always - will they always be  
5 invited and going back to what we discussed earlier  
6 today, perhaps you can just put that question to the  
7 witness.

8 MR. LINDGREN: I think you just did, Mr.  
9 Chairman.

10 MR. CHURCHER: The answer is that  
11 historically, yes, the Minister of the Environment has  
12 always been invited to participate in the meetings and  
13 the indication here is that they may be or can be or  
14 will be, depending on which word you want to choose, a  
15 member of the committee.

16 THE CHAIRMAN: And isn't it a little bit  
17 different in this case in that under the Pesticides Act  
18 the Ministry of the Environment actually issues the  
19 licence?

20 MR. CHURCHER: Precisely, and that's  
21 the --

22 THE CHAIRMAN: You can't avoid the  
23 Ministry of the Environment regardless of what stage  
24 they come in on from having a direct role in this  
25 process?

1 MR. CHURCHER: And that was the logic for  
2 including MOE. If they were part of the regional -- if  
3 they're part of the committee, then they would be aware  
4 of the -- all of the work and the logic of coming up  
5 with a proposal, so that when the permit or the request  
6 for the permit to conduct the spray program arrives on  
7 the regional pesticide officer's desk, it is not the  
8 first time he has heard about it, he's been aware of  
9 everything up to that point and he will have an  
10 understanding of what's been going on.

11 And also that paragraph continues to say  
12 that outside agencies may also be invited to be members  
13 and, in the past, that has indeed -- such an invitation  
14 has been extended.

15 MR. LINDGREN: I would like to pose one  
16 further question on the issue of the stakeholders, the  
17 other stakeholders who have been excluded largely from  
18 this process.

19 MR. FREIDIN: The Appendix 3 process?

20 MR. LINDGREN: Correct.

21 Q. Would you agree with me - and this is  
22 the final question I will pose on this particular  
23 issue - would you agree with me that it may be helpful  
24 to solicit the assistance of these stakeholder groups  
25 at this early stage in order to identify and assess the

1 values that may be affected by the outbreak and the  
2 values that may or may not be affected by the  
3 protection options that are selected?

4 THE CHAIRMAN: What shareholders groups,  
5 every possible stakeholder group out there?

6 MR. LINDGREN: Well, I think the  
7 Ministry's evidence on public consultation reveals that  
8 they have a fairly good idea who would be interested in  
9 this kind of activity.

10 MR. CHURCHER: As I indicated, the  
11 Ministry has extended such an invitation in the past to  
12 groups to sit on the committees. As the Chairman  
13 pointed out or alluded to, we are aware of who the  
14 stakeholders are and there are quite a number of those  
15 stakeholders.

16 And so to best -- in most cases, to best  
17 deal with that the public information or public review  
18 process is designed to give all stakeholders an equal  
19 opportunity to submit their comments to the proposals  
20 and have those comments incorporated in the project  
21 proposals prior to a decision being made.

22 MR. LINDGREN: Q. But they're not  
23 members of the committee, per se?

24 MR. CHURCHER: A. There is a possibility  
25 that they can be and, as I've said, invitations have



1       been extended in the past.

2                   As it turned out, as I recall or as I  
3       understand, that the people that were invited and were  
4       made members of the committee never represented their  
5       organizations at the committee meetings; they, I  
6       believe, came to one committee meeting and never showed  
7       up again.

8                   Q.   Perhaps I can turn briefly then to  
9       the work that's carried out by the committee, and I  
10      understand that the committees review the final insect  
11      surveys and they attempt to determine the seriousness  
12      of the outbreak?

13                  A.   That's correct.

14                  Q.   Now, do they have any objective  
15      standards or criteria by which to judge the seriousness  
16      of the outbreak?

17                  A.   Generally I guess we rely on the  
18      forecasts from Forestry Canada.  If they -- using their  
19      egg mass counts or the subsequent overwintering larval  
20      surveys that we talked about in direct evidence, if  
21      they indicate that there is going to be a moderate or  
22      severe infestation in that particular stand or that  
23      particular area, then that is how we gauge whether it  
24      is severe or serious or not serious.

25                  You also weigh that against what value it

1 is that is being threatened and whether or not the  
2 value is important enough to warrant a protection  
3 program.

4 As I indicated before, there has got to  
5 be three criteria; a stand has to be susceptible, it  
6 has got to have a value, and it obviously has to be  
7 threatened.

8 Q. And if those three crit -- those are  
9 the criteria that you are referring to as objective?

10 A. Yes, yes.

11 Q. Now, if those factors are satisfied  
12 and the committee determines that an outbreak is  
13 serious enough to warrant some form of action, it goes  
14 on to evaluate the various options that are listed in  
15 Appendix 3 and it considers the relative effectiveness,  
16 the economic costs and benefits and the other factors  
17 what we discussed earlier?

18 A. That's correct, including the option  
19 of not doing anything.

20 Q. Now, this analysis is done in advance  
21 of the information centre; is that correct?

22 A. Yes, the analysis is what leads to  
23 the proposal that is presented at the information  
24 centre.

25 Q. And with respect to the consideration

1 of other concerns -- or the concerns of other MNR  
2 programs and Crown land users, could you advise me how  
3 the committee goes about gathering and evaluating this  
4 kind of information prior to the information centre?

5 A. Through the participation of the  
6 regional specialists; for instance, the regional  
7 wildlife biologist on a regional committee might  
8 identify an area, for instance, the Chelsea Township  
9 moose yard or moose overwintering area in Hearst  
10 Township. I believe that area was sprayed for a number  
11 of years in Hearst District at the request of the  
12 wildlife biologist from the region. That is what the  
13 reference to the Ministry's other programs is meant to  
14 exemplify.

15 Q. If the committee recommends only an  
16 accelerated harvest or salvage harvest or a redirected  
17 harvest, no further protection planning is required and  
18 the matter proceeds as an amendment to the timber  
19 management plan?

20 A. That's correct.

21 Q. And if this amendment is  
22 characterized as administrative in nature, there is no  
23 open house and no formal opportunities for public  
24 consultation?

25 A. There we are getting a little beyond

1 my qualifications. My understanding is that --

2 THE CHAIRMAN: Mr. Lindgren, surely we  
3 have gone through that area of the evidence as to the  
4 amendment procedure and how the amendments are  
5 characterized.

6 MR. LINDGREN: This is leading to my next  
7 question, Mr. Chairman; that is, if it's  
8 administrative, then from start to finish there have  
9 been no formal opportunities for public consultation on  
10 the protection operation that was selected by the  
11 committee.

12 MR. CHURCHER: Essentially in that case  
13 there would be --

14 THE CHAIRMAN: There would be no spraying  
15 as well; is that correct?

16 MR. CHURCHER: I was going to say there  
17 would be no protection operation, but I guess by  
18 definition it would be a protection operation that's  
19 going to be conducted through a harvest method, but  
20 there would certainly be no spraying because --

21 MR. FREIDIN: I was going to rise a  
22 moment ago when the question was put about amendments.

23 Of course, amendments are not required if  
24 you conduct those operations -- those harvest  
25 operations, whether they be salvage or otherwise, in



1 areas which have been approved in the timber management  
2 plan. In those cases, they get done as revisions to  
3 the annual work schedule, and we have spoken about  
4 that.

5 We have also led evidence that if, in  
6 fact, it is a new area, if it is not approved in the  
7 timber mangement plan, it has got to go through the  
8 amendment procedure.

9 So it's not every time a harvest takes  
10 place --

11 THE CHAIRMAN: And I think the Board has  
12 heard evidence that if there is going to be any  
13 spraying whatsoever there has to be public notice and  
14 there has to be that whole procedure.

15 MR. FREIDIN: That's correct.

16 THE CHAIRMAN: So it can't be handled by  
17 an administrative amendment and then spraying occurring  
18 at the same time.

19 MR. LINDGREN: I was strictly speaking of  
20 harvest options.

21 THE CHAIRMAN: Well, Mr. Freidin I think  
22 has just provided the reference to what happens in  
23 terms of harvest options. They have already been  
24 approved for harvest in the timber management plan  
25 itself.

1 MR. FREIDIN: If they have, there is no  
2 requirement for amendment.

3 THE CHAIRMAN: That's right.

4 MR. MARTEL: And if you go to an outside  
5 area, it goes beyond the administrative amendment then,  
6 I presume?

7 MR. FREIDIN: I think Mr. Bisschop should  
8 perhaps address that.

9 MR. BISSCHOP: It is possible that such a  
10 prescription could be amended and the affected parties  
11 would get the notice but there would not be, through  
12 the administrative amendment provisions, broader public  
13 involvement opportunities, no.

14 MR. FREIDIN: I think the evidence was,  
15 Mr. Martel, that it is a discretionary decision of the  
16 district manager as to whether it would be  
17 administrative, minor, or major based on the  
18 consideration of those factors outlined on pages 171  
19 and 172 of the Environmental Assessment Document.

20 MR. MARTEL: Yes. I was just trying to  
21 put in place, an administrative amendment usually is  
22 kind of minor in nature as opposed to going out and  
23 harvesting a new area that hadn't been part of the  
24 plan?

25 MR. BISSCHOP: Mr. Martel, if you will

1 recall the hypothetical examples which Mr. Fleet used  
2 in his direct evidence, we tried to demonstrate how by  
3 adding more information, more concerns to a situation;  
4 for example, an addition of a harvest area, one could  
5 demonstrate that in one situation where there are no  
6 concerns it is possible you could decide to go  
7 administrative amendment.

8           You add in a concern of - I forget the  
9 example we used - which may cause you to go minor to  
10 get some kind of public reaction, you add in more  
11 information about directly affected parties and broader  
12 general public interest, and you may end up going  
13 major.

14           We try to demonstrate that it depends  
15 entirely on the situation and the conditions you are  
16 dealing with as to which amendment route you would go,  
17 and that we have outlined the questions that the  
18 district manager poses to himself to make that  
19 decision.

20           But it is possible that the range of  
21 decision-making may be administrative through major for  
22 the amendment category.

23           MR. LINDGREN: Those are my questions for  
24 Mr. Churcher. I would like to move briefly on to Mr.  
25 Davison, pose a few questions to him, and then I think

1 it would be an appropriate time for the lunch break.

2 THE CHAIRMAN: Very well.

3 MR. LINDGREN: Q. And, Mr. Davison, my  
4 questions to you pertain only to the harvest option  
5 that might be implemented where necessary and, in  
6 particular, I'm concerned about salvage cuts, salvage  
7 operations.

8 Can you confirm for me that there are no  
9 MNR manuals or guidelines governing the conduct of  
10 timber salvage operations?

11 MR. DAVISON: A. I'm not. -- as far as  
12 salvage licences are concerned and the procedures for  
13 dealing with them, yes, there is procedure for dealing  
14 with them.

15 Q. There are procedures dealing with the  
16 negotiation of the stumpage fee, the reduced stumpage  
17 fee that might be applicable, but in terms of the  
18 actual salvage operations themselves, there are no  
19 guidelines or manuals?

20 A. I don't see necessarily the  
21 difference between harvesting in normal operations and  
22 salvage operations unless you can be a little clearer.  
23 I'm not quite sure --

24 Q. Well, the point of salvage operations  
25 is to take the dead or dying trees; is that correct?



1           A. That's correct, yeah, and everything  
2 else within the area as well, just not to go in and  
3 harvest the dead and dying material; the whole area  
4 would be identified for harvest.

5           Q. So during the salvage operations  
6 undamaged or green trees may also be taken?

7           A. That's correct.

8           Q. And the Ministry has no expressed  
9 limit as to the precise percentage of green trees that  
10 may be taken?

11          A. Well, if the prescription was for a  
12 clearcut operation to occur, then we would follow just  
13 that and we would harvest the merchantable -- all  
14 merchantable trees in that area.

15          Q. Okay. Moving very quickly to page  
16 645 of your document, in the last full paragraph  
17 entitled: Accelerated Cuts, there is some discussion  
18 of the accelerated cut that was authorized for the  
19 Black River Forest.

20          Now, prior to this infestation, Mr.  
21 Davison, was balsam fir being utilized by the mills?  
22 What percentage of the allocated cut was taken in the  
23 form of balsam fir? In other words --

24          A. Yeah, I'm not quite sure what you  
25 mean.

1 Q. In other words, of the entire MAD  
2 allocation, what percentage constituted balsam fir  
3 prior to the infestation?

4 A. Again, I'm not quite sure. Like, the  
5 MAD is -- there is a MAD for balsam fir working group,  
6 there is MADs for jack pine and you are asking how much  
7 of the balsam fir working group was harvested?

8 Q. No, of the overall allocation of all  
9 working groups, how much balsam fir was being taken  
10 prior to the infestation?

11 A. Well, from unit-to-unit that  
12 percentage of the total MAD for all working groups will  
13 vary how much is in actual balsam fir. I'm not quite  
14 sure what you are referring to.

15 MR. KENNEDY: A. Mr. Lindgren, I am also  
16 having some trouble with your question. Are you asking  
17 what amount of harvest was authorized in the balsam fir  
18 working group prior to the budworm problem?

19 Q. That's correct.

20 A. We could undertake to provide that  
21 answer.

22 Q. Okay, thank you. Mr. Davison,  
23 although Mr. Kennedy has provided the undertaking to  
24 find out the precise percentage, do you have any rough  
25 sense of whether or not all of the balsam fir MAD was

1 being taken or was something less than the MAD being  
2 taken?

3 MR. DAVISON: A. Well, that really does  
4 vary management unit-by-management unit.

5 Q. I'm speaking of the Black River  
6 Forest.

7 A. So now you are going back to what,  
8 81-86 period, or...

9 Q. Well, as far back as you care to go.

10 MR. LINDGREN: Just for Mr. Freidin's  
11 benefit I will explain where this is going.

12 MR. FREIDIN: Mr. Chairman, that is  
13 exactly what I would like to know. To use Mr.  
14 Kennedy's words, we can do it, for instance, by an  
15 undertaking, but of what benefit? So I would like to  
16 sort of hear why.

17 MR. LINDGREN: It is indicated, Mr.  
18 Chairman, that there was an overcut of 144 per cent of  
19 the total MAD for the balsam fir working group was  
20 authorized. I'm wondering why the mill was suddenly  
21 able to utilize all that balsam fir.

22 And to get a sense of whether or not that  
23 was a significant increase, I have to determine what  
24 was being taken before.

25 MR. DAVISON: Okay. It's very

1 significant. It's replacing some other species, that's  
2 really what it's doing; instead of harvesting black  
3 spruce/jack pine, they are now cutting more balsam fir.

4 THE CHAIRMAN: And the rationale behind  
5 that is, if you don't cut it it is going to die anyway,  
6 so you might as well utilize it if you possibly can--

7 MR. DAVISON: That's correct.

8 THE CHAIRMAN: --even to the detriment of  
9 the amount of other species that you are presently  
10 using?

11 MR. DAVISON: That's correct.

12 THE CHAIRMAN: Effectively.

13 MR. LINDGREN: Q. Were there any  
14 technological changes that allowed the mill to somehow  
15 process more balsam fir?

16 MR. DAVISON: A. Wood supply for any one  
17 mill is over a very large area. A larger cut on one  
18 unit might not necessarily change the percentage of  
19 balsam fir going to the mill. There may be -- it may  
20 increase it and it may not.

21 In some cases harvesting of balsam fir  
22 might be lower in some other management unit and,  
23 therefore, you know, there are more balsam fir coming  
24 from the Black River but maybe less coming from  
25 somewhere else.



1 Q. Are you in a position to indicate,  
2 Mr. Davison, that if the mill had been utilizing more  
3 balsam fir prior to the infestation the resulting  
4 infestation might have been smaller?

5 A. The infestation would be smaller?

6 Q. Well, if there are less susceptible  
7 trees, the infestation perhaps might have been smaller?

8 A. I don't believe the infestation area  
9 would be smaller. Some of the accelerated cuts, they  
10 were trying to go into a little bit lower age-classes  
11 and that would -- generally they wouldn't go into those  
12 immature age-classes, but they were trying to salvage  
13 some of the material there before it died, even though  
14 it possibly hadn't reached its rotation age. Generally  
15 in the past we wouldn't do that.

16 MR. LINDGREN: Those are my questions,  
17 Mr. Chairman, for this time.

18 THE CHAIRMAN: Thank you. Very well, the  
19 Board will rise for the lunch hour until 1:30.

20 Thank you.

21 ---Luncheon recess taken at 12:07 p.m.

22 ---On resuming at 1:35 p.m.

23 THE CHAIRMAN: Thank you. Be seated,  
24 please.

25 Mr. Freidin?

1                   MR. FREIDIN: Mr. Chairman, I would just  
2     like to speak to the one undertaking that Mr. Kennedy  
3     gave in terms of getting that information about the  
4     percentage of the MAD of balsam fir that was actually  
5     harvested.

6                   I am just wondering in regards to the  
7     discussion which took place, and the evidence really,  
8     whether it is necessary for that undertaking to be met.  
9     I am just not too sure of what benefit the answer is  
10    going to be.

11                  THE CHAIRMAN: Well, Mr. Lindgren, in  
12    view of the subsequent discussion, is it going to make  
13    a whole lot of difference if you have that exact  
14    percentage?

15                  MR. LINDGREN: No, sir, it won't.

16                  THE CHAIRMAN: Okay. We will dispense  
17    with that undertaking.

18                  MR. FREIDIN: Thank you.

19                  THE CHAIRMAN: Ms. Swenarchuk?

20                  MS. SWENARCHUK: Thank you, Mr. Chairman.

21    CONTINUED CROSS-EXAMINATION BY MS. SWENARCHUK:

22                  Q. Before we return to the area of  
23    concern package which we started to discuss last week,  
24    I have a few questions arising from a number of other  
25    documents, and the first one has to do with Exhibit 883

1       which I believe Mr. Kennedy produced this morning, I  
2       wasn't in the room at the time. 883A.

3               This is the memorandum to the Red Lake  
4       district manager from the regional director of  
5       northwestern region dated February 24th, 1986.

6               MR. KENNEDY: A. Could I have just a  
7       moment to locate that?

8               Q. Pardon me?

9               A. Can I just have a moment to locate  
10      that?

11              Q. Sure.

12              A. Dated February 24th, '86; right?

13              Q. Right.

14              A. Yes.

15              Q. All right. If we can look at the  
16      second page of that, please. Actually it begins at the  
17      bottom of that first page, it is paragraph (iv) and the  
18      regional director says:

19                        "With respect to the protection of  
20                        fisheries habitat, the review team had no  
21                        concerns. While the district continues  
22                        to take a more conservative approach than  
23                        elsewhere in the region, your approach  
24                        would likely be defensible before the EA  
25                        Board."

1                   Now, Mr. Multamaki, can you tell me  
2 whether at this point in time it was contemplated that  
3 this plan would be submitted to the Board as evidence?

4                   MR. MULTAMAKI: A. No, there was no  
5 indication at this time that it was going to be  
6 submitted as evidence. I think that just reflects the  
7 impression that was out there that any plan could be  
8 brought up in front of the EA Board.

9                   Q. Okay, fine. Now, could we turn, Mr.  
10 Multamaki, to Exhibit 882 which was filed last week,  
11 and these are a number of excerpts you will recall from  
12 Book 5 of the timber management plan.

13                   You will recall, members of the Board,  
14 that the page numbers in this document are the page  
15 numbers from Volume Book 5.

16                   THE CHAIRMAN: Which number?

17                   MS. SWENARCHUK: 882.

18                   THE CHAIRMAN: 882. Thank you.

19                   MS. SWENARCHUK: Q. For those people who  
20 have it, I want to start by looking first at number  
21 one, page 129, the sixth paragraph from the bottom that  
22 begins:

23                   "Hartley suggests..."

24                   MS. SWENARCHUK: You don't have it, Mr.  
25 Chairman?



1 THE CHAIRMAN: I don't have it, but Mrs.  
2 Koven has a copy, so I suppose we can share it.

3 MR. CHURCHER: We have an additional copy  
4 here if that would be of assistance, sir.

5 THE CHAIRMAN: If you have one, it will  
6 probably speed things up.

7 MS. SWENARCHUK: (handed)

8 THE CHAIRMAN: Thank you. Okay, I found  
9 mine actually.

10 MS. SWENARCHUK: All right. It is page  
11 No. 129.

12 Q. And you agree with me, Mr. Multamaki,  
13 these are again minutes from the timber management  
14 planning team for the Red Lake Crown Management Unit  
15 Plan?

16 MR. MULTAMAKI: A. Yes, they are.

17 Q. And we are looking at the paragraph  
18 that is sixth from the bottom and it reads:

19 "Hartley suggests we must make the public  
20 aware of the objectives and the need for  
21 these things in good forest management.  
22 Also, indicate to the public the spin-off  
23 benefits of road building for fish and  
24 wildlife, mining exploration..." et  
25 cetera.

1                   Now, Mr. Multamaki, are you aware of any  
2 negative effects of road building, for example, on  
3 wildlife?

4                   A. Certainly road building has impacts  
5 on various parts of the environment, both good and bad;  
6 for example, we've made indication here that some of  
7 the benefits of it are to the social and economic end.

8                   With wildlife I would expect there are  
9 situations where there may be impacts that are not of a  
10 beneficial nature.

11                  Q. Did you anywhere in the plan or in  
12 the public meetings indicate to the public some of the  
13 negative impacts of road building on wildlife?

14                  A. I think the issue may have come up on  
15 a number of occasions. I can't specifically put my  
16 finger on any single one, but certainly it came up in  
17 conjunction with the meetings that took place with  
18 respect to Little Vermilion Lake and the indication by  
19 the local tourist operators that access to Little  
20 Vermilion Lake would have an impact on the fisheries  
21 resource that was there.

22                  So I would say, yes, that both the  
23 positive and negative benefits of road access have been  
24 brought up, but offhand I can't point specifically to  
25 any single area.

1 Q. Well, I suggest to you that on my  
2 reading of the plan there is nothing in the plan that  
3 identifies any negative impacts on wildlife of road  
4 building?

5 A. There may be no documented...

6 Q. Now, could you look at the next page  
7 of the minutes, please, and we are looking at the  
8 section under Amendments to a Plan. The third  
9 paragraph down:

10 "Don says conflicts have developed in  
11 instances where PBs..."

12 That's prescribed burns; right?

13 A. That's correct.

14 Q. "...overlap timber reserves and asks  
15 how to deal with internal concerns of  
16 this nature."

17 Then two paragraphs down we see:

18 "Mike indicates a process is presently  
19 underway in Sioux Lookout to remove  
20 reserve restrictions in the case of  
21 prescribed burns."

22 Now, can you tell us what that process is  
23 and what has been the results of it?

24 A. I'm afraid I'm not aware of what the  
25 internal mechanism for that process was or what the

1 results of them were.

2 As I understand it, and as the Red Lake  
3 Plan was developed, it was on a case-by-case basis with  
4 all of the planning team members being fully aware of  
5 any PB proposals and being involved in the final  
6 prescriptions that occurred for those areas, so - and  
7 within the entire context of the area of concern  
8 planning process - so I'm not sure what was being  
9 referred to here with respect to Sioux Lookout.

10 Certainly it played no role in the final  
11 decisions that were made in the Red Lake Plan and the  
12 plan as it was submitted. However, the fire individual  
13 on the planning team may have been aware of information  
14 that I wasn't. I would expect that he had access to  
15 more information than I did.

16 I should also, going back to the point  
17 that you raised previously about areas in the plan  
18 where impacts were indicated on wildlife and that, in  
19 fact, if you look at the area of concern package there  
20 are a number of sections in there where impacts are  
21 indicated. So there is a section in the plan, if you  
22 will give me a second to come up with that.

23 Q. Okay. We will look at that in a  
24 moment. So it is your position then that to the extent  
25 that the area of concern package indicates effects on



1 wildlife, that's where it is to be found?

2 A. Certainly that's one of the sections  
3 where it's found, yes.

4 Q. Well, where else, Mr. Multamaki?

5 A. I would expect it in the summary  
6 within the area of concern package as well. There was  
7 a summary of impacts -- potential impacts from forest  
8 management operations. Really that book contained most  
9 of the information on the area of concern planning  
10 process.

11 Q. Okay. Well, we'll look at that in a  
12 moment.

13 THE CHAIRMAN: Mr. Multamaki, would you  
14 consider it a requirement of the Environmental  
15 Assessment Act, specifically Section 5(3) subsection  
16 (d), to outline the disadvantages within the assessment  
17 of any of the proposed activities?

18 MR. FREIDIN: Mr. Chairman, I am not sure  
19 whether Mr. Multamaki should be asked -- he can't  
20 answer that question.

21 THE CHAIRMAN: All right. Take the  
22 question out of the context of the Act itself, but is  
23 it your understanding that it is necessary in an  
24 environmental assessment to also outline specifically  
25 the disadvantages as well as the advantages of the

1 impacts that might be occasioned as a result of the  
2 activities contemplated?

3 MR. FREIDIN: I think -- Mr. Chairman,  
4 again, I think properly the question should be whether  
5 he believes that the process that he in fact -- as he  
6 understands it, requires him to do that.

7 Whether in fact it is or is not something  
8 which must be a requirement of the Environmental  
9 Assessment Act in all cases or in some cases, whatever,  
10 maybe I think should be left to argument.

11 THE CHAIRMAN: Okay. What is your  
12 understanding of what the process requires with respect  
13 to outlining disadvantages?

14 MR. MULTAMAKI: With respect to the  
15 timber management planning process and the plan that I  
16 prepared, it was my understanding and still is that  
17 environmental impacts are to be recorded or identified  
18 within the area -- within the context of the area of  
19 concern planning process.

20 THE CHAIRMAN: And that includes the  
21 impacts which could be categorized as advantages to the  
22 environment?

23 MR. MULTAMAKI: Yes, I would say it does.

24 MS. SWENARCHUK: Q. We don't see that  
25 reflected in the minutes, though; do we, Mr. Multamaki?

1       You only spoke about benefits of road planning there.

2                   MR. MULTAMAKI: A. Yes. I would also  
3 say that we don't see a lot of other discussion  
4 reflected in the minutes as well.

5                   At the time that these minutes were  
6 taken, we certainly didn't record every single word  
7 that occurred over an 18-month period. It would be  
8 unreasonable to expect us to do that. It doesn't mean  
9 that that didn't take place.

10                  Q. Before we look at the area of concern  
11 package, Mr. Multamaki, can you just indicate to us  
12 whether there was any training provided to you and your  
13 team in analysing environmental impacts of timber  
14 operations before you wrote this plan?

15                  A. There was no formal training with  
16 respect to the timber management -- preparation of the  
17 timber management planning itself; however, most of the  
18 members on the planning team had been -- either had  
19 academic training that had a certain element of that  
20 involved in it, they had a great number of years of  
21 experience with field operations and the impact of  
22 those field operations on the environment.

23                  Certainly a number of us had a various  
24 number of courses; i.e., soils courses with respect to  
25 siltation, erosion and so on.

1                   So I would say that the combination of  
2           academic training, experience and on-the-job, I guess,  
3           everyday working relationships gave the individuals on  
4           the planning team a fair bit of experience with  
5           environmental impacts.

6                   Q.   Okay.   So that was the -- I'm not  
7           criticizing you, I am simply wanting to establish what  
8           was done prior to this planning process.   So you are  
9           saying that that's the experience on which people were  
10          relying for their analysis of environmental impacts?  
11          Fair enough, but...

12                  A.   I think it would be fair to say that.

13                  MS. SWENARCHUK:   Mr. Chairman, before we  
14          look at the environmental -- the area of concern  
15          package, and this was provided to the Board members  
16          last week as well, perhaps it would be useful for you  
17          to have in front of you now, it was the entire Book 6  
18          of the timber management plan which was prepared for  
19          you by the Ministry of Natural Resources, and it was a  
20          green bound volume.

21                  MR. FREIDIN:   Exhibit 818, Volume 6.

22                  MS. SWENARCHUK:   I just want to indicate  
23          to you in advance that given that there has been some  
24          indication from at least Mr. Bisschop that area of  
25          concern planning may be different now than it was in



1 this plan, I simply want to indicate to you in advance  
2 that we will be providing you with the area of concern  
3 planning documents that we have been able to locate in  
4 the Environmental Assessment Branch in Toronto with  
5 respect to all additional areas of concern for the Red  
6 Lake District filed up to January 1st of this year, and  
7 it will be our position that the planning in those  
8 documents does not differ significantly from this one  
9 and I think, given that, it's instructive to follow  
10 through the planning process in this area of concern  
11 package.

12 Q. So, Mr. Multamaki, could we turn  
13 first to the Class EA Document, Appendix 1, which is  
14 the planning procedure for modified operations in areas  
15 of concern, and could we turn at the same time to area  
16 of concern No. 1 which, Members of the Board, occurs in  
17 this package at Arabic numeral 1, page 1, and that  
18 follows the introductory sections of the book which are  
19 small Roman numerals (i) to (x).

20 Now, Mr. Multamaki, this was the planning  
21 process that you were following in developing these  
22 area of concern prescriptions; is that not correct?

23 MR. MULTAMAKI: A. Yes, you have got the  
24 June, 1987 edition, but there has been very little  
25 change, as I understand, it since then, so...

1 Q. Okay, thank you. So I just want to  
2 correlate the two documents using area of concern No. 1  
3 and then we can follow through some of the others.

4 So looking at Appendix 1 we see that, as  
5 has been previously identified, there are about three  
6 steps in the area of concern planning process and I  
7 simply want to correlate those to the documentation you  
8 prepared on each area of concern.

9 And do you agree with me, Mr. Multamaki,  
10 that on page 2 alternate prescriptions identified that  
11 that - paragraph 5 that is of area of concern No. 1 -  
12 alternate prescriptions identified, that relates to  
13 step 1 of the Class EA Document Appendix 1; namely, it  
14 is the consideration and identification of alternatives  
15 with respect to an AOC?

16 A. Yes.

17 MR. BISSCHOP: A. Excuse me, Ms.  
18 Swenarchuk. I think it is only advisable that I start  
19 this off on the right track again. In my direct  
20 evidence I indicated, and I think indicated very  
21 clearly, that it is not only Appendix 1 that you deal  
22 with for area of concern planning, it is also pages 146  
23 through 152. Appendix 1 is designed to kick in when  
24 you make a decision that you need to modify operations  
25 and then you look at alternative ways of modifying

1 operations.

2 Pages 146 to 152 outline the questioning  
3 procedure I explained where you may make a decision to  
4 have a reserve prescription or you may make a decision  
5 to go normal, and also it explains the complexity of  
6 the process in the sense that, for most areas of  
7 concern, there isn't just one simple answer, but rather  
8 a combination of answers.

9 So I just wanted to make it clear that  
10 Appendix 1 is very much designed to deal with that part  
11 of the process where you enter into examining  
12 alternative ways of modifying your operations and then  
13 you proceed through the analysis requirements of  
14 Appendix 1.

15 Q. Okay. Well, that's said, Mr.  
16 Bisschop. Isn't it correct, Mr. Multamaki, that in the  
17 29 areas of concern that you recorded in this Red Lake  
18 Plan, for all of them you considered various types of  
19 modified operations before arriving at a final  
20 prescription for the area of concern?

21 MR. MULTAMAKI: A. No.

22 Q. I don't believe that there is any  
23 area of concern here in which the prescription is  
24 normal operations proceed. So these are the areas of  
25 concern, is my understanding, in which some form of



1 modified operation was prescribed?

2 A. No. I think if you look at area of  
3 concern No. 1, which you are dealing with right now,  
4 and turn to page 3, the final prescription and  
5 justification is, in fact, normal operations.

6 And I think your premise that we did not  
7 look at -- or we looked at all areas of concern for  
8 modified operations is also incorrect. I can think of  
9 instances where no-cut reserves were an obvious  
10 selection right from the beginning and, in fact, this  
11 Appendix 1 never kicked in.

12 Q. What I am suggesting, Mr. Multamaki,  
13 is that you did more than you needed to do in that  
14 sense, that you put together a document package in  
15 which each area of concern appears to have -- or the  
16 planning for each area of concern contains at least  
17 some documents equivalent to what is required under  
18 Appendix 1 of the Class EA, and it is to your credit  
19 that you did so?

20 A. I would agree that the documentation  
21 does in fact look at that, but there were instances,  
22 like I said, where we had selected a no-cut reserve,  
23 for example, on a lake trout Lake.

24 Q. Right, agreed.

25 A. You know, without looking at modified



1 operations.

2 Q. I would have called that a  
3 modification of normal operations, but let's not  
4 quibble over the terms. Fine.

5 MR. FREIDIN: Well...

6 THE CHAIRMAN: Where exactly, Ms.  
7 Swenarchuk, are we going to go after doing this  
8 comparison?

9 MS. SWENARCHUK: We are going to look at  
10 how the area of concern planning looked at  
11 environmental impacts and to what extent environmental  
12 impacts were looked at. And I was simply attempting to  
13 set out the structure of the documentation as complying  
14 with Appendix 1 in order that we could then look at the  
15 details of the environmental planning.

16 Q. All right. So, Mr. Multamaki, we  
17 have established that paragraph 5 essentially complies  
18 with step 1 and paragraph 6, I suggest, complies  
19 largely with step 2; is that correct?

20 MR. MULTAMAKI: A. That's correct, as  
21 long as you recognize that there is an  
22 inter-relationship between the two and, in fact, the  
23 document -- I don't like to look at it as being a  
24 separate series of building blocks or whatever; they  
25 are, in fact, inter-related, for example.

1                   So just to pull out one section and look  
2                   at it doesn't give you a complete picture of what's  
3                   taking place on that specific geographical area.

4                   Q.   Okay. Well, can we just consider  
5                   step 2 for a moment. Step 2 requires an analysis of  
6                   the potential effects of timber management operations  
7                   and their types and variety, the significance of the  
8                   effects and the preventive and mitigative measures that  
9                   could be taken.

10                  Is it your view that your approach to  
11                  area of concern planning in this package complied with  
12                  those requirements of step 2?

13                  A.   Yes, I think that it did.

14                  Q.   Okay. And then I suggest that  
15                  paragraph 7 in your area of concern package is the  
16                  equivalent of step 3, the selection of preferred or  
17                  most acceptable alternative with supporting rationale.  
18                  Your paragraph 7 and 9, for example, together amount to  
19                  the requirements of step 3?

20                  A.   Yes, I would agree with that.

21                  Q.   All right. Now, just one question on  
22                  area of concern No. 1 where the final prescription was  
23                  to clearcut the area of concern. You indicate at the  
24                  top of page 2, paragraph 5, with regard to the no-cut  
25                  prescription that:

1       that evidence hearsay and not admissible, with respect,  
2       Mr. McNicol.

3                   MR. FREIDIN: Well, Mr. Chairman, I would  
4       submit that hearsay evidence is, in fact, admissible in  
5       these proceedings and that Mr. McNicol should be  
6       allowed to speak to the matters that he has just  
7       mentioned and the Board can, in fact, take into  
8       consideration the fact that it is hearsay when it  
9       determines how much weight will be given to Mr.  
10      McNicol's evidence.

11                   THE CHAIRMAN: Okay. Well, let's clear  
12      up the hearsay part. As all of you counsel are aware,  
13      in these proceedings Section 15 I believe of the  
14      Statutory Powers Procedure Act indicates clearly that  
15      the Board can accept evidence that might be otherwise  
16      inadmissible in a court of law and we give it the  
17      appropriate weight. So hearsay evidence is clearly  
18      admissible in a proceeding of this type and it is up to  
19      the Board to give it whatever weight they feel should  
20      be accorded that evidence.

21                   Now, as far as you not being a member of  
22      the planning team, Mr. McNicol, granted you may have  
23      had some conversations with the member of the planning  
24      team representing wildlife interests, but obviously  
25      that is not the best evidence; the best evidence would

1 perhaps it is a question which either Mr. Multamaki --  
2 I know Mr. McNicol has been involved in discussions in  
3 relation to the wildlife and fisheries aspect of this  
4 plan and perhaps he can comment on that, so at least  
5 before we proceed to this we are proceeding on a clear  
6 indication at least of the Ministry's response to Ms.  
7 Swenarchuk's suggestion that what is shown here is a  
8 lack of consideration of certain things.

9 Before we expend a lot of time on that, I  
10 think the witnesses should be given an opportunity to  
11 indicate whether there is, in fact, a full reflection  
12 of all the considerations in the documentation which is  
13 found in Book No. 6.

14 MS. SWENARCHUK: Well, with respect, Mr.  
15 Chairman, if Mr. McNicol was involved in the planning  
16 team, fine; if he was not, I'm not personally very  
17 interested in comments he could make which could only  
18 be of a totally speculative nature with regard to what  
19 considerations were taken into account and what were  
20 not.

21 MR. McNICOL: Ms. Swenarchuk, I have been  
22 in contact with Mark Subchuk who was on the planning  
23 team and I have discussed the decisions that he arrived  
24 at.

25 MS. SWENARCHUK: Mr. Chairman, I consider



1 to go on. How else are they going to ascertain whether  
2 or not the planning process has been adhered to if they  
3 can't see it represented in the documentation put  
4 forward? I mean, you may know what went on behind the  
5 scenes but how does anyone else know?

6 MS. SWENARCHUK: Mr. Chairman, I want to  
7 reiterate that my concern is not only with the  
8 documentation, but with what is displayed here  
9 regarding the process by which a decision was reached  
10 in various of these areas of concern.

11 If that process in Mr. Bisschop's view is  
12 fairly representative, I think we should proceed. In  
13 any event, I think the documentation records something  
14 about that professional discretionary decision-making  
15 that we have all heard about up to now and I think it's  
16 worth it, again, to take a look at some of those  
17 decisions.

18 MR. FREIDIN: Mr. Chairman, you posed the  
19 question some time ago as to whether, in fact, what one  
20 is looking at when they look at this area of concern  
21 package is looking at the decisions and the rationale  
22 or whether, in fact, one is looking at the  
23 documentation of it; in other words, were their  
24 considerations at the time well documented.

25 It is a question which you posed, I think

1 the plan.

2 THE CHAIRMAN: I don't think it is just  
3 your observations, Mr. Bisschop, I think Ms. Swenarchuk  
4 has indicated that her clients have some serious  
5 concerns as well.

6 MR. BISSCHOP: Fine. What I would come  
7 back to though is say - again, as I attempted to in the  
8 beginning - that I think the elements of the planning  
9 requirements are demonstrated -- for areas of concern  
10 are demonstrated in this plan.

11 I think you noted earlier, Mr. Chairman,  
12 and I have reinforced it with some detail, that what is  
13 really in question here is the adequacy of the  
14 documentation of that, and I think that we would  
15 probably find that criticisms of a varying nature in  
16 terms of the documentation of any plan on the elements  
17 of the process.

18 I think the way that the planning has  
19 been done following the requirements set out in the  
20 Class EA is quite representative. The problem is, I  
21 think, with the documentation, the adequacy of the  
22 documentation and, therefore, the traceability, if you  
23 will, so that someone can understand very clearly how  
24 the process was applied.

25 THE CHAIRMAN: That's all that anyone has

1 we would be able to produce, I would suggest, would be  
2 approved in 1989 or perhaps '88. There has been  
3 developments since that time which also would be not  
4 represented in those plans.

5 So I think we will continue to be faced  
6 with the situation where we will not have an up-to-date  
7 plan that reflects the best training and --

8 THE CHAIRMAN: No, but surely it will  
9 account for some very significant events, as you have  
10 just mentioned two of them, the Baskerville Audit, the  
11 Ministry's response to that audit. And the Baskerville  
12 Report, as you are aware, dealt with questions of how  
13 the stuff is reported, how the stuff is traced back in  
14 terms of the public being able to see where the  
15 decisions emanated from and what considerations were  
16 taken into account.

17 MR. KENNEDY: Yes. We do expect to see  
18 continued advancement in the quality of plans that are  
19 being prepared with the additional efforts that we are  
20 undertaking and we will endeavor to produce a plan that  
21 will best illustrate that.

22 MR. BISSCHOP: Mr. Chairman, if I could  
23 add, perhaps I unfortunately have thrown some gas on  
24 the fire here through my observations on items that I  
25 would be critical of in terms of the documentation in

1 we had a full amount of information here to illustrate  
2 its development. And we felt that that investment of  
3 both time and manpower effort was such that we would  
4 stay with it, and we would be very forward in coming --  
5 bringing to your attention the deficiencies in the plan  
6 and indicate that we have put forward it to illustrate  
7 the application, the process, albeit that it will be  
8 deficient in some areas, but we are relying very much  
9 on the fact that it is here as an example of the  
10 process.

11                   However, having said that, we will  
12 certainly take another look and I would advise you that  
13 it will take, I would suggest, several weeks to a month  
14 in order to pull together a plan that would best  
15 represent the kind of direction that has occurred most  
16 recently, we'll be looking at --

17                   THE CHAIRMAN: Well, it is unfortunate  
18 that this has occurred because it has essentially  
19 wasted a great deal of time in going through this --

20                   MS. SWENARCHUK: And resources.

21                   THE CHAIRMAN: And resources, in going  
22 through this plan in detail and, in fact, it doesn't  
23 represent what may be occurring at this point in time  
24 in the field.

25                   MR. KENNEDY: Mr. Chairman, the plan that



1 ministries and parties on ways to refine that process.

2 THE CHAIRMAN: Well, we are now in 1989,  
3 is there not a plan--

4 MS. SWENARCHUK: Can I ask one simple  
5 question?

6 THE CHAIRMAN: --since 1989 that has  
7 really addressed some of those things?

8 MS. SWENARCHUK: Mr. Kennedy --

9 MR. FREIDIN: Well, Mr. Chairman, I mean,  
10 you asked Mr. Kennedy to answer the question. Perhaps  
11 he could finish his answer and then Ms. Swenarchuk can  
12 ask him the question.

13 MS. SWENARCHUK: My apologies.

14 MR. KENNEDY: I was going to indicate the  
15 reason that we stuck with the Red Lake Plan, to use  
16 that phrase, was after some consideration of: Should  
17 we change. We made the decision very early in the  
18 exercise, at the time that Mr. Multamaki was still in  
19 the employ of Natural Resources in Red Lake District.  
20 We had expected that Panel 15 would be appearing before  
21 the Board in a much more timely fashion and we had what  
22 I would say a considerable investment in ensuring that  
23 we had adequate preparation to put the plan forward, we  
24 had district staff on alert, we had additional copies  
25 made, a variety of information assembled to ensure that

1 provided to planning teams.

2 THE CHAIRMAN: Well, would you not  
3 consider that that would be really what the Ministry  
4 should have done in the first place in terms of putting  
5 before the Board an example of what a plan should look  
6 like, instead of a plan that was produced in the very  
7 early stages and may not resemble what one would look  
8 like today?

9 MR. KENNEDY: Well, I thank you for  
10 asking that question. We feel very strongly that we've  
11 put forward a plan that demonstrates the planning  
12 process and that it's my understanding --

13 THE CHAIRMAN: But surely the planning  
14 process includes more than just the steps you go  
15 through, it also includes the way those steps are  
16 documented.

17 MR. KENNEDY: Yes. And also we've  
18 indicated right from the beginning that we've attempted  
19 to implement the -- or we have implemented the process  
20 to the best of our abilities at the various times that  
21 we continue to evolve that process.

22 There is a variety of new items that have  
23 come forward as a result of things as simple as the  
24 June, '87 amendments, the Baskerville Report, the  
25 government review, continued discussions with

1 effect that this was done without the benefit of  
2 training, this was an attempt by a planning team in the  
3 field to read the Class EA and muddle through it as  
4 best they can.

5 MS. SWENARCHUK: But it was sanctioned  
6 then by the region, so...

7 THE CHAIRMAN: Okay. And we understand  
8 that. Now, what we are saying is: Let's see, at least  
9 with respect to the area of concern side of it, a  
10 better example if one exists. There may not be a  
11 better example and, if there isn't a better example,  
12 then obviously the Board will have to consider that in  
13 its ultimate decision in terms of what documentation  
14 should be required and how it should be documented so  
15 that the public can satisfy itself that certain  
16 considerations were taken into account before decisions  
17 were reached.

18 Mr. Kennedy, does such a plan exist or is  
19 this it? Are you going to stand by this as the  
20 Ministry's best example.

21 MR. KENNEDY: I would take this  
22 opportunity to have another look at plans that have  
23 been produced more recently. I would like to see if we  
24 can find one that would provide a better indication of  
25 the kind of additional training and information we have

1 have an opportunity to take a look at what information  
2 they had and how it ultimately appears in the plan that  
3 they produced.

4 MS. SWENARCHUK: Excuse me, could you  
5 repeat that?

6 THE CHAIRMAN: Sorry. I think what we  
7 are saying is, is that you should be entitled to an  
8 opportunity to take a look at the information they had  
9 through other processes, through open houses or  
10 whatever manner in which they gathered the information  
11 and how it appears and is reflected in the plan that is  
12 produced. That's a separate question.

13 MS. SWENARCHUK: Well, we have looked  
14 here at other processes from wildlife management to,  
15 you know, all the other values, processes that have  
16 occurred in the Red Lake area.

17 THE CHAIRMAN: What we are interested in  
18 as well is the simple fact that this plan has been put  
19 forward by the Ministry as an example---

20 MS. SWENARCHUK: Absolutely, Mr.  
21 Chairman, absolutely.

22 THE CHAIRMAN: --of the planning process  
23 under the planning process essentially that is before  
24 the Board for approval and yet there are all kinds of  
25 statements, Mr. Bisschop making the most recent, to the



1 looked at the entire plan in coming to the issues which  
2 we wish to draw to your attention with regard to the  
3 area of concern package, and I am wondering if you  
4 would consider expanding your request that whatever  
5 plan the Ministry chooses to produce is produced in its  
6 entirety, which is the only way that we can analyse it.  
7 It doesn't necessarily mean the Board has to read it  
8 all, but... That's the first issue.

9 The second issue is that we have  
10 attempted to take our own look at what documented  
11 non-timber values exist in this area of Red Lake and  
12 the extent to which the planning package reflects what  
13 the Ministry itself has identified through other  
14 various processes. That, of course, I think is  
15 essential to any evaluation not only of this plan but  
16 of any other plan.

17 Given that the Ministry is, to a certain  
18 extent, disavowing this plan, perhaps these  
19 difficulties simply are implicit in the position they  
20 are now taking but, again, I would suggest that in  
21 order to evaluate the planning process of any other  
22 plan it is really essential to go through all of those  
23 steps.

24 THE CHAIRMAN: Well, we are not saying  
25 that it isn't and we are not saying that you shouldn't

1 efforts in the field of a planning team which has been  
2 trained, to the extent that training is given of this  
3 process, concerning this process, bearing in mind that  
4 it isn't finally approved yet, et cetera, and it is  
5 under development.

6 But surely out of the 32 or 37 plans, or  
7 whatever number of plans have been completed, you have  
8 a plan that you can put forward to the Board, not done  
9 in 1986 right at the beginning of this process, but one  
10 that has been completed later on after you have had an  
11 opportunity to ensure the planning teams are as aware  
12 of the process as they might possibly be at the point  
13 that the training was given and they went out and did  
14 their thing.

15 And we would like not the whole plan,  
16 what we would like to see is the area of concern  
17 package, the documentation, the equivalent of Book 6 of  
18 the Red Lake Plan so that we can have an idea of what  
19 your best effort looks like, if there is such a thing.

20 MS. SWENARCHUK: Well, with respect, Mr.  
21 Chairman, if you would just consider these submissions.

22 You will note - if I ever have a chance  
23 to proceed with this cross-examination and I have some  
24 questions now about its utility - but you will note  
25 that we have attempted to -- first of all, we have

1 in the Toronto head office about what should be in this  
2 documentation and the view that we are all entitled to  
3 take about what is actually happening in the field.

4 And could we also note that in the  
5 document that Mr. Kennedy produced this morning, which  
6 is the results of the regional review of this plan, the  
7 review was extremely complimentary; that is, this  
8 region felt this was a very well done plan and it may  
9 well be.

10 I think we are entitled to proceed on  
11 that assumption and if there are deficiencies in it you  
12 will certainly hear argument from us at some point that  
13 we are entitled to infer that given the amount of  
14 positive consideration of this plan within the  
15 department, there are deficiencies in other plans as  
16 well.

17 THE CHAIRMAN: Excuse us one moment.

18 ---Discussion off the record

19 THE CHAIRMAN: Okay. Ms. Swenarchuk,  
20 without specifically commenting on what you have just  
21 raised, but we have taken a serious note of it, we  
22 would like to request that the Ministry provide us with  
23 a copy of just the area of concern package with respect  
24 to a plan which has been completed using this planning  
25 process as up to date as possible which represents the

1 would reflect more adequately, if I can use the term,  
2 what you are attempting to achieve, rather than going  
3 back in history to 1986 which is before we really got  
4 down to all the nitty-gritty that you are going to want  
5 approval of?

6 MS. SWENARCHUK: Could I just make some  
7 comments before we proceed here. You see, this has  
8 been precisely our problem with this plan throughout,  
9 and I think the Ministry can't have it both ways;  
10 either it is the plan that is produced as the prototype  
11 that allows us to see what all this discretionary  
12 decision-making results in, or it is not; in which case  
13 it will be our position that the Ministry has not  
14 produced any evidence of what the results of the  
15 planning process are, in which case, in our view, there  
16 is an enormous gap in their case.

17 But further to your concern, Mr. Martel,  
18 perhaps it is appropriate at this point to distribute  
19 the area of concern documentation that accompanied the  
20 amendments which, if anything, are more brief than the  
21 descriptions within the plan itself and those date up  
22 to January of this year.

23 Now, I must return to my initial position  
24 and I think that there is a great difference, with  
25 respect, between the view of an environmental planner



1 reaction, a final decision would have been made in  
2 component No. 9 that is either, again, a reflection of  
3 the preferred prescription in component No. 7 with the  
4 justification provided, or perhaps even a change.

5 Again, just to generally re-emphasize, I  
6 think that the structure of the documentation in terms  
7 of the elements is good. I think there is some mixing  
8 going on in terms of what documentation should appear  
9 where.

10 I would expect to see more clearly a  
11 description of the alternatives in and of themselves,  
12 no judgments about them, I would expect to see a more  
13 comprehensive analysis, I would expect to see in the  
14 end, in component No. 9, the preferred prescription  
15 appear with the rationale for the decision that was  
16 preferred.

17 MS. SWENARCHUK: Can I just interrupt for  
18 one --

19 MR. MARTEL: Could I ask a question. I  
20 have a problem. Since this documentation was only  
21 prepared I guess earlier this year, this final 15, 16  
22 and 17 - I guess it was January or thereabouts - why  
23 would we have not had presented to us not something  
24 that was done in 1986 before we had training and so on,  
25 why wouldn't we have had a more up-to-date plan which

1                   In the first paragraph under item No. 1,  
2                   we have indicated that the best information available  
3                   to the planning team in terms of: What are the effects  
4                   I should be thinking about as I am doing this analysis,  
5                   is provided in Chapter 11 of this document of the Class  
6                   EA. The intent was that they would use that as a  
7                   source, knowing the value you are dealing with - which,  
8                   by the way, is recorded in components 3 and 4 of this  
9                   forum - one would expect the planning team to use that  
10                  information as a source for the effects that they  
11                  should be thinking about for their alternative  
12                  prescriptions. And in the environmental analysis you  
13                  would expect to see, I would suggest, a more  
14                  comprehensive analysis that uses that as a base.

15                  Item No. 7, as I understand it in terms  
16                  of the way the document is structured, would have been,  
17                  if you will, the preliminary decision made by the  
18                  planning team based on that analysis for the preferred  
19                  prescription with the intention being that that  
20                  preferred prescription would go public to the  
21                  information centre.

22                  And item No. 8 would record whatever  
23                  public comments there were on either that preferred  
24                  prescription or on the alternatives themselves, and  
25                  that using that information from item No. 8, public

1       reserve there.

2                   As Ms. Swenarchuk has indicated, in some  
3       ways the planning team did more than what was required  
4       in the sense that they looked at all three options when  
5       there may be situations in which reserve was the  
6       obvious prescription to begin with and you shouldn't  
7       have to look at clearcut versus modified. That's one  
8       part of it.

9                   Secondly, there is often a discussion of  
10       effects that appears there and sometimes a statement on  
11       which of those options is preferred. I wouldn't expect  
12       to see that in component No. 5. I would want to see a  
13       description of the possible prescriptions, and if we  
14       assume that we are dealing with an area of concern that  
15       has modified prescriptions, I would expect to see a  
16       description of alternative prescriptions.

17                   In the environmental analysis I would  
18       expect to see a more complete discussion of  
19       environmental effects. If I could turn to page 3 of  
20       Appendix 1 very briefly, we talked about step 2 having  
21       three elements to it: identification of effects,  
22       determination of their significance and identification  
23       of - for simplicity sake - mitigative measures that  
24       might also be applied up and above the modified  
25       prescriptions themselves.

1 understand it as best they could and to seek assistance  
2 from the regional planning specialists to apply the  
3 planning requirements.

4 With that kind of context, I would have  
5 to say that in terms of the documentation format -- I  
6 think -- I should say, I should only speak to the  
7 documentation side, I can't speak to whether or not the  
8 decision was good, I leave that to others.

9 The structure of the documentation in the  
10 three pages, items 1 through 9, for the time that they  
11 produced it and in reflecting on this over the past few  
12 days, is very good in terms of the nine elements that  
13 are addressed there.

14 I think where the inadequacies are, and I  
15 would say the inadequacies are substantial, there is a  
16 level of confusion, inconsistency and inappropriateness  
17 in terms of the way documentation is produced in the  
18 various areas of concern that are addressed, also  
19 certainly a measure of incompleteness when it comes to  
20 the subject of effects.

21 For example, just taking area of concern  
22 No. 1, in subject No. 5 -- or component No. 5, I would  
23 expect there to see only a description of the possible  
24 prescriptions that might apply. In the case of a  
25 reserve prescription, I would only expect to see a



1 per cent clarification, at least not to my liking, as  
2 to what this plan represents.

3 MS. SWENARCHUK: Which is why we are  
4 prepared to provide you with the amendments to it up to  
5 January of this year, so that you could look at the  
6 extent to which area of concern prescriptions were  
7 developed right up to the present time.

8 THE CHAIRMAN: Right, and that's fair for  
9 the Board to have that information, but I would like  
10 the Ministry to indicate: How do they regard this plan  
11 in terms of adequately setting out the planning  
12 process?

13 It has been put forward, it has been the  
14 only major example put forward, we can assume it is  
15 your best effort, maybe it isn't.

16 MR. BISSCHOP: Mr. Chairman, I believe it  
17 is probably most appropriate that I respond to your  
18 question, and we have given this considerable  
19 consideration.

20 We must understand that this plan was  
21 produced in 1986 with, as I indicated previously, no  
22 provincial level training, certainly no provincial  
23 level training in terms of the application of the area  
24 of concern process. By and large, Mr. Multamaki and  
25 his planning team were left to read the Class EA, to

1       being taken into account throughout this timber  
2       management planning unit.

3                   THE CHAIRMAN:   Okay.   Well, the Board  
4       doesn't object to you proceeding, but just before you  
5       do I would like to ask one question of Mr. Multamaki;  
6       and, that is:  Are the considerations that went into  
7       these decisions in terms of the area of concern  
8       package, in your view, adequately documented?

9                   In other words, if one looks at what is  
10       written down here - and you prepared the plan - does  
11       one get a feeling of what amount of consideration went  
12       into these various decisions; if not, I guess what you  
13       are saying is that doesn't really represent very well  
14       the level of detail that went into those  
15       considerations?

16                   MRS. KOVEN:   But isn't the question  
17       really how helpful is that in the final analysis to  
18       public scrutiny anyway?

19                   THE CHAIRMAN:   That's right, that is the  
20       ultimate question.  And what I am trying to say is that  
21       this may be a very bad example of the type of  
22       consideration that actually went into these decisions,  
23       or you may be taking the position this is a good  
24       example.

25                   See, the Board has never got a hundred

1 appropriate consideration wasn't given in the first  
2 place.

3 MS. SWENARCHUK: Well, that's our view,  
4 Mr. Chairman, that those impacts that were considered  
5 are outlined in some detail and we will be asking to  
6 what extent other considerations or other impacts were,  
7 in fact, considered and with what level of expertise  
8 they were considered.

9 Mr. Chairman, can we recall once again  
10 that throughout this entire proceeding and in the  
11 timber management planning process we are required to  
12 rely on the area of concern planning process very, very  
13 substantially for environmental protection.

14 Aside from the silvicultural guides which  
15 provide a range of possibilities for different site  
16 types, in our view of the planning process, it is  
17 essentially the area of concern planning process which  
18 will or will not protect various types of environmental  
19 values. For that reason I think it is very important  
20 to examine in some detail how those decisions are made  
21 and what decisions result from it.

22 This is the example that has been  
23 provided to us. The reason that I provided you with  
24 the full package as opposed to a selected package is  
25 that you could see to what extent other values are

1 I have no doubt, as Mr. Multamaki has reaffirmed today,  
2 that various members of the planning team made various  
3 suggestions and these were taken into account and  
4 decisions were made. I think it's important to look at  
5 the -- finally look at the actual decisions in a  
6 particular plan.

7 THE CHAIRMAN: Well, are you looking  
8 really at the decisions or the way the decisions were  
9 documented? First of all, we haven't got the planning  
10 team per se in front of us.

11 MS. SWENARCHUK: But we have as much as a  
12 member of the public can see about area of concern  
13 planning by looking at this plan.

14 THE CHAIRMAN: Yes. Well, you may have  
15 some valid criticisms as to the manner in which the  
16 decisions were in fact documented, but that doesn't  
17 necessarily mean that appropriate consideration by the  
18 planning team was not given to some of these  
19 environmental impacts.

20 I guess what I am saying is: You may  
21 well end up, after reviewing a number of these  
22 examples, that what appears as an explanation for the  
23 decisions reached does not adequately reflect what  
24 consideration went into the decision or, conversely,  
25 you might also come to the conclusion that the



1 Chairman, it is not my intention to examine every area  
2 of concern in the package. I will be clear about that.

3 However, I think this is a repetition of  
4 the discussion or argument we had at the end of  
5 Wednesday of last week with regard to our contention  
6 that this is the plan that allows us to look not merely  
7 at the considerations that we have been told about as  
8 being taken into account in planning, but the actual  
9 decisions that result from those considerations. And,  
10 once again, we had been assured from the beginning that  
11 this would be the plan in which we would be able to see  
12 the results of all those considerations.

13 In our estimate, this package in its  
14 reflection of the degree to which environmental impacts  
15 were considered in these area of concern prescriptions  
16 is perhaps the best evidence we are going to have about  
17 how that planning process, in fact, works and what  
18 results from it. And it is our contention that we see  
19 little detail about actual environmental impacts in  
20 these various area of concern prescriptions and it is  
21 for those purposes that I think it is worth looking at  
22 a few of them.

23 In contrast to your suggestion, Mr.  
24 Chairman, it is our position that it is important to  
25 look at what the results of the planning process were.

1 qualified to deal with that issue than I am.

2 THE CHAIRMAN: Ms. Swenarchuk, I hate to  
3 interrupt you again, but doesn't this whole line of  
4 questioning deal with the evaluation made by this  
5 particular planning team and the rationale that they  
6 came for might have been a number of factors as opposed  
7 to questions related to process?

8 Like, the Board thought where you were  
9 going was to ascertain whether or not certain  
10 considerations had, in fact, been looked at in arriving  
11 at the ultimate prescription or the ultimate treatment  
12 of the area of concern, as opposed to what the decision  
13 was in this particular case, vis-a-vis this particular  
14 area of concern; in other words, as to whether or not  
15 they decided that the no-cut option was not to be  
16 followed here perhaps was based on a number of factors,  
17 some of which have been brought out, some of which  
18 haven't.

19 But the Board was led to believe that  
20 your concern in looking at this whole thing would be  
21 not going behind each individual prescription or  
22 decision reached, but more to investigate the process  
23 that was considered in arriving at whatever  
24 prescription was arrived at.

25 MS. SWENARCHUK: First of all, Mr.

1 band of alders adjacent to it which would limit  
2 siltation and so on.

3 It was also flat, essentially level with  
4 very limited potential for erosion and run-off and  
5 these were all, I guess, considerations when the  
6 planning team made the decision to clearcut that small  
7 area.

8 Q. All right. Well, you have said at  
9 the bottom of page 2, paragraph No. 4, that:

10 "The wood is 110 years old and will be  
11 lost to nature in a few years."

12 Meaning that, presumably, the trees will  
13 fall; is that right?

14 A. That's correct. What you are looking  
15 at is a 110-year-old black spruce stand on relatively  
16 level ground. Once you open up the area it was  
17 expected that blowdown would occur and so on and, in  
18 fact, the area would be lost to nature or would die,  
19 mortality would occur.

20 Q. Now, would you not agree that trees,  
21 as you put it, lost to nature can, in fact, be very  
22 beneficial for wildlife habitat?

23 A. I would imagine there are certain  
24 species that would use that area after blowdown or  
25 death has occurred. I am sure that Mr. McNicol is more



1 "As this area is relatively small, the  
2 loss of wood is not justified."

3 Now, it seems to me, Mr. Multamaki, that  
4 someone could argue the converse; if the area is small  
5 then the loss of wood is not significant and should be  
6 more easily justified?

7 A. I think, Ms. Swenarchuk, you have to  
8 look at this area of concern as being developed in the  
9 context of the planning team approach. There were a  
10 number of planning team members involved in developing  
11 these prescriptions, fur management officer, biologists  
12 and so on.

13 When you look at the map contained on  
14 page 4 and you see the area of concern, in fact, it is  
15 two hectares in size, it is the only area being  
16 impacted on that stream system and it's my  
17 understanding that the planning team members involved  
18 in developing this prescription had determined that, in  
19 fact, a clearcut in that area of that size and nature  
20 would have minimal impact on the biological  
21 characteristics of being able to provide furbearer  
22 habitat and so on.

23 You will also notice from the FRI stand  
24 typing the three circles which denote alder swale. The  
25 shoreline of that stream, in fact, had a substantial



1 be that witness himself coming forward.

2 MS. SWENARCHUK: Might we underline, we  
3 have a member of the planning team present Mr.  
4 Multamaki. Why would we go to a secondary account of  
5 the planning process from someone who wasn't present?

6 MR. FREIDIN: Well, I said ask Mr.  
7 Multamaki or Mr. McNicol, perhaps you should ask Mr.  
8 Multamaki.

9 THE CHAIRMAN: Well, I think it is just  
10 frankly going to prolong things to get that kind of  
11 evidence from Mr. McNicol--

12 MS. SWENARCHUK: Absolutely.

13 THE CHAIRMAN: --when in fact Mr.  
14 Multamaki was a member of that team.

15 But where do we go from here, Ms.  
16 Swenarchuk? I mean, the Board doesn't necessarily want  
17 to completely decimate your cross-examination, but we  
18 are faced with a situation I think that this plan may  
19 not represent what is done at this time in the field in  
20 terms of how it is documented and, consequently, the  
21 Board would like to see what a more up-to-date or  
22 relevant plan looks like. We can compare it with what  
23 this effort has been.

24 MS. SWENARCHUK: I would like a break to  
25 consider this issue with my client, Mr. Chairman.

1 THE CHAIRMAN: Okay.

2 MR. FREIDIN: Mr. Chairman, may I ask  
3 for, seeing this is an unexpected occurrence, if I  
4 could also have leave to discuss this with certain --

5 THE CHAIRMAN: Confine your discussion to  
6 the idea of perhaps producing a better example of a  
7 plan--

8 MR. FREIDIN: Thank you.

9 THE CHAIRMAN: --since they are under  
10 cross-examination.

11 MR. FREIDIN: Thank you.

12 THE CHAIRMAN: We will come back in 20  
13 minutes.

14 ---Recess taken at 2:40 p.m.

15 ---On resuming at 3:10 p.m.

16 THE CHAIRMAN: Thank you. Be seated.

17 Ms. Swenarchuk, we have been toying over  
18 during the break as to how we can effectively handle  
19 this situation that's arisen concerning the Red Lake  
20 Plan and perhaps some other plan that the Ministry  
21 might come forward with, and we would like to throw out  
22 the suggestion that rather than continuing with an  
23 extensive cross-examination on the Red Lake Plan, that  
24 the Ministry be given an opportunity to produce an  
25 additional plan, if they can; and rather than putting

1       that plan in through direct evidence to have the plan  
2       filed, we will mark it as an exhibit, you can review it  
3       and all the other parties at your leisure, and when it  
4       comes time to your presentation of your evidence you  
5       can deal with that second plan at that time and  
6       indicate through your own evidence where the plan falls  
7       short, instead of cross-examination per se, and then  
8       the Ministry would be allowed a right of reply to the  
9       questions relating to that plan; and perhaps that plan  
10      can be contrasted with the Red Lake Plan because there  
11      may be a difference in what we are seeing in the Red  
12      Lake Plan and what we see in a more representative plan  
13      after the training and after the Baskerville  
14      considerations have been taken into account, et cetera.

15               We are just not sure of the value at this  
16      time of going through a plan in detail which appears on  
17      the face of it, in terms of the documentation relating  
18      to it, to be somewhat deficient. And it is unfortunate  
19      that it has arisen in these circumstances, but we along  
20      with I think most of the other parties were of the view  
21      that the Red Lake Plan was the "best effort" to come  
22      down the pike in terms of this planning process and I'm  
23      not sure that that's where we are today.

24               MS. SWENARCHUK: Well, Mr. Chairman, I  
25      would like to suggest the opposite, that I proceed with

1 my cross-examination, which it will take much less time  
2 to complete than, in my respectful submission, has been  
3 wasted by the Ministry's filing of this plan and then  
4 subsequent disavowal.

5 Many, many questions arise from this  
6 problem that is being focused on today as it was  
7 focused on a week ago. The first question is: What is  
8 the status of this plan, and the immediate answer to  
9 that is that there is a piece of land in this province  
10 that is currently being managed in accordance with this  
11 plan, has been since it was put into effect, and that  
12 in itself I think is a matter of some importance.

13 I think surely on this issue we should be  
14 clear that what we are really dealing with is a  
15 question of credibility, ministerial credibility. A  
16 great deal of time was spent in direct testimony using  
17 this plan.

18 I note, Mr. Chairman, that other parties  
19 are not present this afternoon to become aware of this  
20 development and if the other parties spent a fraction  
21 of the enormous economic cost that we spent in having  
22 this plan professionally analysed, an enormous waste of  
23 intervenor funding has resulted from this, in my  
24 respectful submission, abuse of this process.

25 THE CHAIRMAN: Well, it is certainly a



1 concern to the Board because we appreciate the attempts  
2 of the Ministry to put before us the evidence that they  
3 think is relevant, it is their case but, by the same  
4 token, it doesn't materially assist the Board if what's  
5 put before it does not represent what should occur in  
6 the future.

7 And if we are to base our decision on the  
8 documentation that is set forward in this plan, our  
9 recommendations at the end of this case might be  
10 totally different than what might be the case had  
11 better documentation been presented.

12 MS. SWENARCHUK: Mr. Chairman, returning  
13 to my argument that this is not merely a question of  
14 documentation, it is more profoundly a question of  
15 credibility and of the actual decisions that were  
16 rendered in the plan.

17 Might we underline that if any other plan  
18 is produced to you, in my submission, all you can learn  
19 from that plan is: This is what the Ministry considers  
20 to be acceptable. You cannot learn from that plan what  
21 the 37 plans under the present planning process which  
22 are now in effect in fact contain, nor can you learn --

23 THE CHAIRMAN: Well, I am not -- go on.

24 MS. SWENARCHUK: We also have a great  
25 deal of concern that 45 plans become due next April the

1 1st.

2 THE CHAIRMAN: Well, there is always this  
3 transition period, Ms. Swenarchuk, in any process. We  
4 are dealing with a process now, that albeit is taking  
5 longer than anyone imagined at the outset, but at some  
6 point in time the application before us is up for  
7 decision and what happens after that point in time  
8 will, in a sense, be regulated by what happens with the  
9 Board's decision.

10 What happens up to that point is just  
11 like any other process, we are in the transition  
12 period.

13 ---Discussion off the record

14 THE CHAIRMAN: Okay. The Board is  
15 prepared to let you complete your cross-examination  
16 with respect to the Red Lake Plan. We are suggesting,  
17 however, when the new plan, if one does get presented,  
18 that it be dealt with in terms of your own case with  
19 perhaps a right of reply after that.

20 MS. SWENARCHUK: Well, we recognize that  
21 that will be essential.

22 THE CHAIRMAN: Rather than having the  
23 Ministry spend another month going through the new plan  
24 in direct and then cross-examination from all the  
25 parties, et cetera.

1                   We feel at that point in time perhaps the  
2 parties who may wish to critique that plan can do so as  
3 part of their own case and we will just reverse the  
4 procedure a bit and give the Ministry a right of reply  
5 if necessary.

6                   MS. SWENARCHUK: Which has significant  
7 implications in itself, but I am not arguing, given the  
8 time -- the extraordinary amount of time wasted to  
9 date. Could I just underline --

10                  MR. CASSIDY: That's an editorial  
11 comment. You know, she is responding to your question,  
12 that's all the answer should be is a response, not an  
13 editorial comment.

14                  THE CHAIRMAN: Okay.

15                  MR. FREIDIN: And I would like an  
16 opportunity to say something before she completes  
17 her --

18                  THE CHAIRMAN: Let's get some order into  
19 this. All of you will have an opportunity to comment  
20 in a moment.

21                  Are you finished, Ms. Swenarchuk?

22                  MS. SWENARCHUK: No, but I think I will  
23 stop at this point. I would really like to resume the  
24 cross-examination.

25                  THE CHAIRMAN: Okay. We will get to that

1 point in one minute.

2 Mr. Campbell?

3 MR. CAMPBELL: Mr. Chairman, I appreciate  
4 the Board making the suggestion as to how to best deal  
5 with this matter. I think there is a significant  
6 problem in the fact that people are preparing or have  
7 prepared cross-examinations based on this plan and they  
8 may or or may not feel that your proposed method of  
9 dealing with this is satisfactory.

10 I would like to suggest that, given that  
11 we are resuming on Tuesday for some procedural matters  
12 in any event, that if anyone has any concerns about  
13 this proposed method of dealing with this that they be  
14 given the opportunity on Tuesday to make those  
15 submissions.

16 We, for one - it is no secret - have  
17 thought that it would be more than sufficient for  
18 purposes of making the relatively minor points that we  
19 want to make on this matter to deal with it by way of  
20 cross-examination using the Red Lake Plan and perhaps  
21 others as examples in order to come up with some  
22 suggestions as to how some of our concerns can be  
23 approached. And it must be remembered that  
24 cross-examination of an actual example can lead to  
25 useful admissions which save all kinds of time.



1                   So if it turns out that there is no  
2                   dispute on a hard example, there is no dispute that to  
3                   do "x", "y" and "z" would be easy to do and a great  
4                   improvement, then that matter is gone for the balance  
5                   of the hearing.

6                   THE CHAIRMAN: Okay. Well, we have  
7                   determined that Ms. Swenarchuk will complete and  
8                   continue with her cross-examination of the Red Lake  
9                   Plan.

10                  What we are looking at, quite frankly,  
11                  is: When this new plan surfaces, if one should exist,  
12                  that the Ministry is going to put forward, we would  
13                  like to try and explore ways of handling it slightly  
14                  differently so that we do not spend the amount of time  
15                  that we have spent on the Red Lake Plan to date.

16                  MR. CAMPBELL: I am not either  
17                  disagreeing or agreeing, Mr. Chairman. What I am  
18                  saying is that there are some considerations that might  
19                  be brought to bear on this particular issue of how best  
20                  to deal with that situation, and I think people should  
21                  have in fairness the opportunity to react to the  
22                  Board's suggestion and consider --

23                  THE CHAIRMAN: Okay. Well, we will deal  
24                  with that Tuesday, okay?

25                  MR. COSMAN: Mr. Chairman, just very

1       briefly. I along with the other counsel have sat  
2       patiently the last 45 minutes or so during the various  
3       exchanges between the Board and Ms. Swenarchuk and she  
4       has made a lot of submissions by way of argument to  
5       you, but I won't propose to respond to that at this  
6       time and take the Board's time, but I don't want for  
7       the record to let it go silently by because she has  
8       been slipping a lot of positions and arguments to you.

9                   THE CHAIRMAN: Okay.

10                  MR. COSMAN: Two points. No. 1, merely  
11       because there is a more recent plan with the passage of  
12       time doesn't mean in any way that this plan at that  
13       time using the planning process that was there is bad;  
14       and, No. 2, it doesn't mean, as she suggests, that the  
15       exercise of professional judgment is bad.

16                  And I certainly agree and support her and  
17       the Board in its decision that she should be allowed to  
18       continue to cross-examine, but I wouldn't want to let  
19       her points of argument go unmet.

20                  THE CHAIRMAN: Mr. Freidin?

21                  MR. FREIDIN: And, Mr. Chairman, in the  
22       same vein I want to make it very clear that the  
23       Ministry of Natural Resources does not in any way  
24       disavow, to use Ms. Swenarchuk's words, the Red Lake  
25       Plan. The Ministry does not withdraw from what it says

1       that plan represents.

2                   There has been no question in relation to  
3       the timber aspect of that plan raised, I am talking  
4       about a question similar to the question raised by Ms.  
5       Swenarchuk in relation to the documentation regarding  
6       areas of concern.

7                   So, in that respect, I want to make it  
8       quite clear that there is nothing, as I hear the  
9       submissions, being criticized in terms of that part of  
10      the plan along the lines which has given rise to all of  
11      these submissions.

12                  Secondly, and to echo what Mr. Cosman has  
13      said, Ms. Swenarchuk has repeatedly said that this is  
14      more than an issue of credibility -- pardon me, it is  
15      more than an issue of just documentation, it is an  
16      issue of credibility and the decision itself.

17                  And I repeat what I said before and my  
18      client stands firmly behind the statement that the  
19      decisions made in this plan in relation to the areas of  
20      concern are good ones and that people should not become  
21      alarmed by the innuendo of Ms. Swenarchuk that somehow  
22      there is a piece of land out there which is being  
23      managed in accordance with absolutely unfounded  
24      decisions.   That's No. 2.

25                  No. 3, I again echo the comments made by

1 other counsel, Mr. Campbell in particular, that I would  
2 like the opportunity to consider the Board's suggestion  
3 as to how further evidence might be dealt with.

4 I can tell you that some of the people on  
5 this panel are going to have to be involved in this  
6 discussion as to how we go about producing this  
7 additional information. Again, I ask for leave to in  
8 fact discuss that with them. It may very well be that  
9 in the time that we can spend over the weekend that we  
10 could have some suggestions in addition to the one made  
11 by the Board. If that in fact is possible, I would  
12 like the opportunity to be able to do that.

13 THE CHAIRMAN: Well, you certainly have  
14 leave to discuss this issue with the panel over the  
15 weekend. What the Board suggested was only that, a  
16 suggestion.

17 We would like to - if it means going into  
18 the depths of a second plan as an example put forward -  
19 to try and come up with some procedural way to handle  
20 it in a more expeditious fashion. That's basically  
21 what we are after.

22 MR. FREIDIN: I understand that. And one  
23 last comment. Ms. Swenarchuk used the phrase that  
24 somehow the preparation that has taken place has been a  
25 waste of time, the suggestion also being that it has



1       been a waste of money.

2                       In my submission, Mr. Chairman, the  
3       Ministry of Natural Resources was not compelled to put  
4       forward a timber management plan as an example to  
5       assist the Board in understanding the process. Having  
6       done that and accepting for the moment for the purposes  
7       of my submissions -- well, I don't have to do that.

8                       The evidence has been that the  
9       documentation of the area of concern planning process  
10      is not up to scratch in terms of what the Ministry  
11      would like to see and what the Ministry will in fact  
12      believe it will have to deliver when this Board imposes  
13      terms and conditions in relation to an area of concern  
14      planning process.

15                      If we have a plan here in which, if I am  
16      correct, the decisions are correct - and I think these  
17      witnesses can in fact speak to that - but the  
18      documentation is not up to scratch, then it might very  
19      well be a plan which provides Ms. Swenarchuk with the  
20      opportunity to point out what in fact the documentation  
21      shouldn't look like, it might in fact provide the basis  
22      for her to make suggestions through her consultants or  
23      whatever that they -- basically, instead of seeing it  
24      this way they should see thus and so. It may very well  
25      be that a plan which has some shortfalls in relation to

1 the documentation would be better before the Board than  
2 perhaps one which had been perfect.

3 And I would rely, Mr. Chairman, on the  
4 experience of the Board as to what is and what is not  
5 an acceptable environmental assessment approach which  
6 is, in fact, what is to be reflected by the area of  
7 concern planning process. I would rely on that and the  
8 submissions that would be made to you at the end of  
9 this hearing to, in fact, provide you the basis upon  
10 which to specify and perhaps particularize what is or  
11 what would be a proper or more particular indication as  
12 to the documentation that you would like to see.

13 So I say that this plan -- whether we  
14 produce something which is better in terms of meeting  
15 the final product that the Ministry would like, I do  
16 not believe, and I submit with respect Ms. Swenarchuk's  
17 submissions, does not affect the Board's ability to  
18 deal with the issues which are squarely before it and  
19 in no way should be looked upon as having caused the  
20 incurring of a waste of time or the unnecessary  
21 expenditure of funds.

22 Those are my submissions.

23 THE CHAIRMAN: Okay. Let's get on with  
24 the cross-examination, if we can.

25 MS. SWENARCHUK: I don't agree with all

1 those submissions, but I am not going to take time to  
2 reply.

3 Q. Mr. Multamaki, would you turn to area  
4 of concern No. 3 which begins at page 9 of this  
5 documentation, and then to page 10, Mr. Chairman.

6 Let's proceed, Mr. Multamaki. Page 10,  
7 paragraph 6, we see that you have set out as usual the  
8 four alternatives that you considered for most of the  
9 areas of concern: selection cut, modified cut,  
10 clearcut and no-cut, and I notice that you have  
11 indicated that with regard to a modified cut and a  
12 clearcut you consider those alternatives  
13 non-applicable. Is that what n/a stands for?

14 MR. MULTAMAKI: A. That's correct.

15 Q. And you did not then proceed to do an  
16 environmental -- an analysis of the environmental  
17 impacts of those possible approaches because you  
18 considered them non-applicable; is that right?

19 A. We looked at selection cut and no-cut  
20 as two of the alternatives.

21 Q. Right. And you didn't turn your mind  
22 to what the impacts could be of the other types of cut?

23 A. No, we didn't feel they were  
24 applicable for that specific situation.

25 Q. So is it your view then that step 2

1 of the Class EA, Appendix 1, which has to do with the  
2 environmental analysis of alternatives, does not  
3 require you to do an analysis of all the alternatives  
4 you have identified but only the one that you  
5 eventually will use?

6 A. No. I think I should point out that  
7 in this situation you are dealing with a biological  
8 situation that isn't conducive to either modified  
9 harvest cutting or clearcutting.

10 In reality what you are seeing here, if  
11 you look under No. 5 at the top of page 10, you will  
12 notice that there is a very minimal amount of  
13 merchantable conifer material with very heavy  
14 undergrowth of younger conifers. What's taking place  
15 is that you, in fact, cannot completely clearcut the  
16 area because there is very little in the way of  
17 merchantable material and there was really no  
18 opportunity to go in and completely clearcut the area.

19 As well, modified harvest cutting with  
20 respect to blocks or strips also required a relatively  
21 homogenous stand type to go in and take out a section  
22 of that stand.

23 Really the only choices we were faced  
24 with in this specific situation is selectively  
25 harvesting those few individual trees that were in the



1 area of concern or leaving it, not cutting it. There  
2 really wasn't the other option from an operational  
3 standpoint.

4 Q. Right.

5 A. I think what's that we are  
6 demonstrating here, is that they weren't alternatives  
7 because we simply could not implement them.

8 Q. Now, I think that that approach to  
9 identifying alternatives occurs throughout the areas of  
10 concern planning documentation; that is, in various of  
11 the areas of concern, 22 out of the 29 I believe,  
12 numerous of the possible alternatives simply have an  
13 n/a beside them and no analysis was provided.

14 And are you saying that's why, in each of  
15 those cases, the alternatives were not analysed at all?

16 A. No. In this instance it was a  
17 biological situation; i.e., the stand type and the  
18 amount of material that was in there. Again, I point  
19 to section No. 5 at the top of page 10 where under  
20 No-cut Reserve it says:

21 "This would mean leaving the limited  
22 amount of merchantable conifer material."

23 In other words, there was very little  
24 material and to clearcut was an impossibility; i.e.,  
25 there was a great deal of unmerchantable material that

1 we simply could not take from an industrial standpoint.

2 Q. All right. Frankly, Mr. Multamaki, I  
3 was interested in reading this package - which the  
4 Board can now see as well - that on, as I say, 22 out  
5 of the 29 areas of concern not all of these  
6 alternatives were analysed in any depth and that's why  
7 I just asked you if the reason for that n/a which  
8 occurs so frequently throughout this package was always  
9 operational concerns.

10 I take it from your answer that that was  
11 not the reason in all cases. So could you indicate to  
12 me what the decision-making process was that led to you  
13 very frequently not analysing all the possible  
14 alternatives?

15 A. What the n/a applies to, as I  
16 remember it, is the situation for a number of reasons,  
17 operational being one of them, where we could not  
18 implement that as an alternative; i.e., it would not  
19 take place, and there were a number of reasons for  
20 that.

21 One was operations or was the fact, for  
22 instance, on page 10 or area of concern No. 3 where it  
23 was the biological make-up of the stand. In some  
24 instances, as I remember it, it was topographical  
25 problems which, again, I guess got back to the ability

1 to harvest it in a prescribed fashion.

2 Q. Well, let's look at the next one  
3 then, area of concern No. 4. The area of concern here  
4 is a 30-metre area along an unnamed lake south of  
5 Alford Lake, this is page 13. And on page 14 we see  
6 that the option that was marked n/a in this case was  
7 the no-cut option, no analysis of that was provided and  
8 it was simply marked not applicable. Now, why is that?

9 A. Because we were looking at, in fact,  
10 harvesting a portion of that area of concern. It was  
11 recognized that there was no high value fisheries  
12 associated with it.

13 In fact, if you look on page 13 at the  
14 bottom it states under the Values Summary that it  
15 provides a recreational fishery for northern pike.  
16 Nothing specific, it shows a potential spawning area  
17 along the northwest shore of the lake, and we looked at  
18 modified harvest techniques in some fashion along that  
19 and no-cut as well, eventually.

20 Q. So then the description -- the  
21 decision that some harvesting was going to be done in  
22 that area of concern was made before the environmental  
23 impacts of the various options had been analysed; is  
24 that not correct? You never did analyse the no-cut  
25 option?

1                   A. No. I think that what we looked at  
2 was, we looked at the situation and identified it as an  
3 area where there was the potential for a modified  
4 operations and, in fact, we moved into what is  
5 considered Appendix 1 or what is Appendix 1 in the  
6 Class EA; i.e., we said: No, that it is not a no-cut  
7 reserve, modified operations can take place in this  
8 area of concern, how do we go about doing that.

9                   Q. My concern, Mr. Multamaki, is that my  
10 understanding of Appendix 1 to the Class EA is that  
11 what the planning process requires is that you analyse  
12 in a differential way the environmental impacts of each  
13 of those options, and if you then choose to discard the  
14 no-cut option, we have an analysis of how the option  
15 chosen will protect the environment and why the no-cut  
16 option was discarded.

17                   It appears to me that you did not bother  
18 analysing whether, in fact, significant better  
19 environmental protection could have resulted had you  
20 instituted a no-cut prescription for this AOC?

21                   MR. BISSCHOP: A. Again, Ms. Swenarchuk,  
22 I have to come back to my earlier explanation that you  
23 do not use Appendix 1 entirely on its own for area of  
24 concern planning, and I think, again, we made that very  
25 clear in our direct evidence. I thought I made it



1 clear again this afternoon.

2 If you go to page 147 and you recall my  
3 direct evidence example of what I call the decision  
4 tree --

5 MR. FREIDIN: Sorry, Mr. Bisschop, can  
6 you just slow down a little bit, please. That's 147?

7 MR. BISSCHOP: We have a value which, in  
8 this case, is I believe the pike fishery. We have  
9 defined an area of concern and we ask ourselves the  
10 question: Can we operate and still protect the value.  
11 That is a question that was considered and the decision  
12 on that question was made: Yes, we can operate,  
13 therefore, the option of reserve is not considered  
14 further.

15 MS. SWENARCHUK: Q. Can I just ask --

16 MR. BISSCHOP: A. We then looked at the  
17 question of: How can we operate, and that's where he  
18 got into the alternative of a selection cut, and that's  
19 where Appendix 1 comes into play.

20 Q. Well, Mr. Bisschop, how can you  
21 decide that this is an area in which you can operate if  
22 you haven't first analysed the environmental impacts of  
23 the various alternatives which could involve selection  
24 harvest, modified harvest or no harvest at all? Surely  
25 you have--

1 A. He uses the process --

2 Q. --to go through that process before  
3 you can reach a decision that we can harvest here?

4 A. Ms. Swenarchuk, this is where I would  
5 suggest that the Fisheries Habitat Guidelines that the  
6 planning team had available to them at the time come  
7 into play in terms of helping to answer that question.

8 Q. Perhaps you could explain that a  
9 little further, Mr. Bisschop?

10 A. I don't claim to be an expert in the  
11 application of the Fisheries Habitat Guidelines, but  
12 they do provide for the conditions you encounter,  
13 prescriptions that can be employed to fit that  
14 particular kind of condition.

15 Perhaps Mr. McNicol can speak to this  
16 further although, again, he is not the expert on the  
17 fisheries habitat.

18 But the guidelines would be used at this  
19 time to answer that question: Are the conditions there  
20 in terms of the value and the slope such that I can't  
21 operate? If you can't, you would make a decision that  
22 there is a reserve. The conditions were such that you  
23 could operate and then you move into the next step of  
24 the process in terms of: How am I -- what kind of  
25 prescription can I employ, how can I operate.

1 Q. So are you saying then, in fact, Mr.  
2 Multamaki, you were the person who was on this planning  
3 team, that a kind of analysis goes on first of all -  
4 and this also applies to your description, Mr.  
5 Bisschop, of what is required by the Class EA - somehow  
6 you apply the Fish Habitat Guidelines and if that tells  
7 you that you can - which I suggest is some degree of  
8 environmental analysis in itself - you apply those, it  
9 tells you can operate, so then you discard further  
10 analysis of the no-operation option and proceed with  
11 just the other alternatives. Isn't that what you have  
12 just outlined as a process?

13 A. Exactly, and I would suggest that the  
14 process works in the other way as well. If you turn  
15 to -- the first one I encounter is area of concern No.  
16 6. And to make the point, if you turn directly to the  
17 final prescription.

18 Q. It starts at page 21?

19 A. Yes, and if you turn to page 23 you  
20 see the final prescription. The decision to deal with  
21 the value that was encountered in that area of concern  
22 was a no-cut reserve.

23 Q. Yes.

24 A. That decision would be made using the  
25 guidelines, assuming we are dealing with fish here and

1 I believe we are, when I am asking myself the very  
2 first question I, therefore, then don't have to proceed  
3 with any further analysis, I've made the decision that  
4 the conditions I am encountering are such that I can't  
5 operate and I specify the width of the reserve on the  
6 basis of the application of the guidelines. No further  
7 planning is required for that area of concern.

8 Q. Don't you agree, Mr. Bisschop, that  
9 it would be helpful if somewhere in the area of concern  
10 planning package, if not in this plan some other plan,  
11 that decision-making process was clear so that one  
12 could know definitively that the governing document  
13 really seems to be the Fish Habitat Guidelines?

14 A. I believe the process is clearly  
15 described in the Class EA and the use of the guidelines  
16 is also described in that explanation of the process.

17 Q. What about a member of the public in  
18 the field who comes to look at this package; how are  
19 they going to know?

20 A. Who comes to look at this  
21 documentation package?

22 Q. Yes, or any other plan I specified,  
23 Mr. Bisschop. Surely my question is: Would it not be  
24 helpful in this package to make it clear that the Fish  
25 Habitat Guidelines were the basis on which so many of



1       these prescriptions were made?

2                   A. I think the description of the value  
3 obviously is your first indication that you are dealing  
4 with fisheries habitat, and I guess I am saying it is  
5 understood that the Fish Habitat Guidelines would  
6 apply. I suppose it's possible that one could document  
7 that the Fish Habitat Guidelines were used to make that  
8 decision, yes.

9                   Q. And, in fact, the plan does refer to  
10 the fact that the Fish Habitat Guidelines were  
11 indicated. But surely, Mr. Bisschop, it may be  
12 understood to an environmental planner in the Ministry  
13 of Natural Resources that Fish Habitat Guidelines  
14 exist, it is not so clear to the public, there is any  
15 knowledge at all that such guidelines exist.

16                   MR. KENNEDY: A. Ms. Swenarchuk --

17                   Q. Mr. Bisschop, please.

18                   MR. BISSCHOP: A. Well, most interested  
19 and affected parties in timber management planning, I  
20 would expect, would have some basic understanding that  
21 that kind of direction is available to determining  
22 prescription decisions.

23                   THE CHAIRMAN: Ms. Swenarchuk, I don't  
24 think you are going to get much more out of Mr.  
25 Bisschop on this question, so perhaps you could move on

1 to something else, or perhaps ask any other member of  
2 the panel the same thing.

3 MR. McNICOL: Ms. Swenarchuk, perhaps I  
4 can help you with your question. As you have  
5 indicated, the fisheries guidelines are mentioned in  
6 the preface to the AOC document.

7 MS. SWENARCHUK: Q. That's right.

8 MR. McNICOL: A. You can't just pick up  
9 the document and turn to a particular prescription and  
10 find everything that you need to know about the  
11 rationale behind that decision without reading the  
12 preface to the document.

13 What you are implying is that the  
14 fisheries guidelines should somehow be mentioned in  
15 each one of these prescriptions where you are dealing  
16 with waterbodies.

17 I would suggest that's redundant as it is  
18 in the preface and to understand the documentation one  
19 would have to read the preface, and I would suggest  
20 that to a member of the public or another professional  
21 that's picking up this document and trying to  
22 understand the rationale that went behind some of the  
23 decision-making.

24 MRS. KOVEN: I don't think that's quite  
25 the point. I think the point would be that there could

1 be one sentence, in the example of, area of concern 4  
2 where you would say the decision to do this kind of a  
3 cut was made because of the Fish Habitat Guidelines, in  
4 area of concern 6 the decision was made in response to  
5 concerns by tourist operators.

6 And I think it is as simple as that, it  
7 is just found in different places.

8 MR. McNICOL: I understand your point,  
9 Mrs. Koven. I guess what I am saying is, that's all in  
10 the preface. The documents that were utilized to  
11 derive these prescriptions are mentioned in the  
12 preface. So anybody reading the preface would  
13 understand that whenever you are dealing with a  
14 fisheries concern, fisheries guidelines would applie;  
15 tourism, tourism guidelines; moose, Moose Habitat  
16 Management Guidelines.

17 So it would seem, to my way of thinking  
18 anyway, redundant to mention that each time in each  
19 prescription.

20 MR. MARTEL: Could I ask a question  
21 though. Most of you are professional, or all are  
22 professional, all deal in a specific field and you get  
23 used to the jargon, you take for granted that other  
24 people -- I mean, it's the same, it doesn't matter  
25 whether you are in teaching or anywhere else, people

1 get familiar with the jargon, they get familiar with  
2 what they want to say.

3 I think there is a tendency to forget  
4 that the rest of the public are off doing something  
5 else, they are not teaching, they are in some other  
6 profession; and what people who are directly involved  
7 in these things do is simply take for granted that  
8 everybody else understands what they are talking about,  
9 and that becomes one of the difficulties, I think, for  
10 the public trying to -- the lay public at least, coming  
11 in and trying to understand the process.

12 And I think it is a danger. As I say, it  
13 doesn't matter what area you work in. Where I came  
14 from there is all kinds of jargon that no one would  
15 understand, but to us over a period of time you just  
16 took for granted that everybody knew it, and that's the  
17 difficulty.

18 And I think that's an area that maybe the  
19 Ministry has to be a little alert for when they are  
20 dealing with a lot of other people from a lot of other  
21 walks of life.

22 MR. McNICOL: Mr. Martel, your point is  
23 well taken and you have given me an avenue to say  
24 something that I wanted to say about this particular  
25 document in my personal observations from when I was on



1 a planning team.

2 When the first EA Document came out and  
3 we got to the section on environmental analysis, I will  
4 be candid with you, it was like a professional affront  
5 to me as a biologist, because what I saw there as a  
6 requirement, I thought, was my rationalization or me  
7 having to justify as a professional why I came to a  
8 particular decision.

9 Now, I saw it only in that light at that  
10 time and recognizing that before that time I had made  
11 decisions without any public input, without any input  
12 from a planning team, but me, as a professional  
13 biologist, making a decision as to how I was going to  
14 protect that particular resource. So at first light it  
15 looked like a professional affront.

16 Now - and I will again be candid - it  
17 wasn't until I got much further down the road that I  
18 understood the importance, speaking just from a  
19 practical sense, from an MNR sense, as to why that kind  
20 of documentation need exist.

21 And when I speak of an MNR sense, what I  
22 am saying is, if I am a new biologist going to a  
23 district and I haven't had anything to do with this  
24 plan, I want to be able to pick up that plan and  
25 determine exactly how the biologist that preceded me

1 decided that that is the particular prescription they  
2 want, and these are the decision-making steps that we  
3 went through to decide.

4 Obviously, from the public standpoint, if  
5 they have a particular area of concern, they are also  
6 going to want to do exactly the same thing. But being  
7 very candid with you, I saw my first enlightenment, if  
8 you will, was only from an MNR sense, not the public.

9 But as I got into more and more plans,  
10 the tourism issue was the one that really brought it to  
11 me, if you will, that it is very necessary that it is  
12 very clear how you have arrived at a particular  
13 decision, vis-a-vis a tourism value, to use the most  
14 predominant example, because that guy or a subsequent  
15 owner is going to want to know how that decision was  
16 arrived at. And if I am not the biologist that made  
17 the decision, I better have a document that I am going  
18 to be able to refer to and find out how that decision  
19 was made.

20 I make those comments in light of the Red  
21 Lake Plan and recognizing that they were in a very  
22 early stage of trying to rationalize decisions. The  
23 sheets that they used they devised themselves as a  
24 planning team. So it was very early, and some of the  
25 the reasoning or some of the reason for the lack of

1 good documentation, I would suggest, is because some of  
2 the feelings that -- perhaps because of some of the  
3 feelings I had as a planning team member early in this  
4 process.

5 MS. SWENARCHUK: Q. You weren't a member  
6 of the Red Lake planning team, though, Mr. McNicol?

7 MR. McNICOL: A. I was not.

8 Q. All right. So have you concluded now  
9 that it is not a professional affront to require you to  
10 document your decision-making in non-timber value  
11 protection?

12 MR. McNICOL: A. I have been  
13 enlightened.

14 Q. Could we turn to area of concern No.  
15 22, Mr. Multamaki, which is at page 87 of the package.

16 Now, this is a 60-metre area of concern.  
17 On page 87 we see that no-cut is the preferred option  
18 with maximum cover allowing access to aquatic feeding  
19 and shelter areas. Modified harvest cut is the same as  
20 no-cut, I don't quite understand that. And then we see  
21 that the selection cut is considered not suitable as  
22 the area has little material for saw logs.

23 Could you indicate, first of all, what  
24 you mean when you say that the modified harvest cut is  
25 the same as no-cut? It's a preferred option, is that

1       what you mean? Page 88 at the top, Mr. Multamaki.

2                   MR. MULTAMAKI: A. I am just trying to  
3 refresh my memory on this particular area of concern,  
4 and if I could have a second.

5                   I think the intent there or the rationale  
6 behind modified harvest cut being the same as no-cut --

7                   MR. FREIDIN: Excuse me, Mr. Multamaki,  
8 if you could just wait a moment.

9                   THE CHAIRMAN: Go ahead.

10                  MR. FREIDIN: Sorry.

11                  MS. SWENARCHUK: A. Go ahead.

12                  MR. MULTAMAKI: A. Okay. The rationale  
13 behind making the statement that the modified harvest  
14 cut was the same as no-cut was based on the access  
15 situation allowing cover for movement and shelter of  
16 animals and, in fact, through a modified harvest cut  
17 you still leave large blocks of untouched timber  
18 adjacent to that area, and essentially our  
19 determination was that it would serve essentially the  
20 same purpose.

21                  Q. All right. And then you decided that  
22 the selection cut is not suitable as the area has  
23 little material for saw logs. But then we see on the  
24 next page that the final prescription is a 60-metre  
25 selection harvest. Could you explain that apparent



1 inconsistency?

2                   A. If looks to me like the area itself  
3 was scheduled for selection harvest, although a very  
4 minimal amount of material would be removed from it.  
5 In fact, looking at the situation here, it is unlikely  
6 that a great deal of material would be taken out of  
7 that area of concern; i.e. there aren't any saw logs  
8 and a selection -- or there are very few saw logs and  
9 the selection harvest would remove only a very minimal  
10 amount of material.

11                   In fact, if you can picture it in your  
12 mind, it would be very close to a no-cut reserve with a  
13 few individual trees being removed from it.

14                   Now, in this instance it looks to me like  
15 when the decision was made by the planning team that  
16 even though it wasn't completely suitable for a  
17 selection harvest, the decision by the planning team  
18 was that barring timber management considerations there  
19 were other considerations; i.e., movement of animals  
20 and so on, that outweighed the timber value in there  
21 and that a selection harvest, in fact, was what was the  
22 final prescription.

23                   Q. Well then, it is clearly not accurate  
24 to indicate that selection harvest is not suitable; is  
25 it, if you then proceed to implement exactly that

1       prescription?

2                   A. I think the intent there is that -  
3       from strictly a timber management or an industrial  
4       viewpoint - selection harvest wasn't really suitable  
5       and, in fact, in the field whether or not any amount of  
6       operations took place in that area of concern, I just  
7       don't think that there was much material taken out of  
8       there at all. The odd individual tree from the looks  
9       of it.

10                  Q. Why not just call it a reserve then?

11                  A. In hindsight perhaps we could have  
12       done that. Granted, there were a few individual trees  
13       that probably did come out.

14                  Q. Would you look now at area of concern  
15       No. 26 which begins at page 103. This is described as  
16       Onnie Lake. On various maps I see that Omni Lake.  
17       Could you just clarify for the record which is  
18       accurate?

19                  A. It is Onnie Lake, O-n-n-i-e.

20                  Q. So the spelling here is accurate  
21       then?

22                  A. That's correct.

23                  Q. All right. Now, this area, as you  
24       indicate at the bottom of page 103, is part of a  
25       potential wilderness park addition that maintains a

1 high quality walleye and northern pike fishery, and you  
2 implemented here a 120-metre reserve.

3 Now, is the potential wilderness park  
4 involved the Woodland Caribou Park?

5 A. Yes. As I remember, Onnie Lake was  
6 looked at as a starting off point or an access point  
7 into Woodland Caribou Park. It was also a canoe route  
8 and high use tourism area and that 120-metre reserve  
9 was a reflection of those combination of values.

10 Q. Now, if you put an area of concern in  
11 this area, it suggests to me -- or the question arises  
12 whether the allocated areas include land that is within  
13 the proposed park expansion?

14 A. Could you repeat that question,  
15 please?

16 Q. To your knowledge, did any of the  
17 areas allocated under this plan include land within the  
18 proposed park expansion?

19 And I will just recall for you that in  
20 Exhibit 882, which are some of the Book 5 excerpts we  
21 looked at earlier, the pages that are marked pages 70  
22 and 71 are the Woodland Caribou Park proposed expansion  
23 on the RLCMU.

24 I think you wrote these. Would you like  
25 to take a moment to find it. Exhibit 882.

1 MR. KENNEDY: A. Which date and which  
2 memo are you referring to, please?

3 Q. This is the memo that is on pages 70  
4 to 71, it is dated October 20th of 1986 and essentially  
5 it is a calculation of timber values for the proposed  
6 park expansion and an estimate of the impact.

7 MR. MULTAMAKI: A. Yes, I am aware of  
8 this. In fact, I remember the letter and the issue.

9 Q. And we see your name on the bottom of  
10 page 71. Were you the person who did this calculation?

11 A. Yes, I did.

12 Q. Okay. So I believe you subtract --  
13 did you subtract from the MAD for the unit the area --  
14 in the plan you indicate that the areas of the park,  
15 the extent to which the unit management boundaries  
16 overlap the park, those areas were removed from the MAD  
17 calculation?

18 A. The existing park was, as it was  
19 established, was removed from the original MAD  
20 calculation where you see original MAD (after Fire No.  
21 7), that had the park as it was established and in  
22 Order-in-Council location removed from it.

23 Q. Right.

24 A. What you see in the figures in the  
25 right-hand column, where it says adjusted MAD after



1 park expansion, was an estimate of what the new MAD  
2 calculation would see should the proposed park  
3 expansion take place and remove that specific area out  
4 of the Red Lake Crown Management -- or remove it for  
5 timber management purposes from the Red Lake Crown  
6 Management Unit.

7 Q. Right. Now, is it correct then that  
8 in calculating the actual MAD for this plan you did not  
9 remove from the MAD base the figures here that  
10 reflected the proposed park expansion as opposed to the  
11 then current park boundaries? You did not remove from  
12 the MAD calculation these estimates?

13 A. No, the proposed park expansion was  
14 not reflected in the approved MAD figures, and I think  
15 you will notice in the last paragraph we asked for an,  
16 I guess, indication of what the status of this proposed  
17 expansion is and, as I understand it, that expansion in  
18 fact has never taken place.

19 Maybe Mr. Groves would be more aware of  
20 that than I am.

21 MR. GROVES: A. Yes. That was a  
22 proposal looked at for a possible expansion of the  
23 park, it's not a proposed expansion of the park as it  
24 stands right now. That was just one alternative that  
25 was looked at in the past, and will be developed --

1 will be looked at, I imagine, again once the park plan  
2 is developed.

3 Q. All right. So is it fair to say then  
4 that the Ministry has not to this date made a decision  
5 with regard to whether that park expansion will, in  
6 fact, occur?

7 A. That's correct.

8 Q. All right. Now, if we get back to  
9 area of concern No. 26, this lake which is part of the  
10 potential park addition. My question again, Mr.  
11 Multamaki, was: Do the allocated areas under this plan  
12 include land that is within the proposed park  
13 expansion?

14 MR. MULTAMAKI: A. Yes. However, I  
15 would caution that the land included, the allocated  
16 area that is included in the proposed park expansion,  
17 in fact, is also in the no-cut reserve; i.e., the  
18 120-metre no-cut adjacent to Onnie Lake was, in fact,  
19 where the proposed park expansion.

20 So, for practical purposes, should the  
21 park have been expanded it would have been expanded  
22 with the 120-metre distance, as I remember it, and  
23 harvesting would not have taken place in there.

24 Q. Okay. Just to be clear then. Are  
25 you saying that the 120-metre reserve contains all the

1 land that was in the proposed expansion within the  
2 allocated areas?

3 A. As I remember it, yes.

4 Q. So no harvesting has occurred then on  
5 land that is within the area of the proposed park  
6 expansion? Perhaps Mr. Groves could answer that  
7 question.

8 The question is, Mr. Groves: Has any  
9 harvesting occurred on land that is within the area of  
10 the possible or proposed park expansion?

11 MR. GROVES: A. I'm not certain I'm up  
12 on the details enough to answer that off my head. I  
13 cannot remember. I haven't dealt with the proposed  
14 expansion that deals with the Red Lake Crown in  
15 recent...

16 Q. All right. Mr. Multamaki, from your  
17 knowledge of the areas that were allocated for harvest  
18 at the time the plan was developed, am I right in  
19 understanding that you are not clear on whether those  
20 areas included any land that was part of the proposed  
21 park expansion or not?

22 MR. MULTAMAKI: A. To the best of my  
23 recollection they did not include area within the  
24 proposed park expansion except in the Onnie Lake area  
25 where that 120-metre area of concern coincided with

1 what would have been the new park boundary should the  
2 proposed expansion have been approved.

3 Q. All right. So then, thinking again  
4 of the calculation that you did that's reflected in  
5 Book 5, is all of this land within the 120 metres  
6 around this lake?

7 A. No, it's not. What you are really  
8 talking about now is something that's perhaps better  
9 shown on the map, or the base map for that area.  
10 Really we are talking about an area that's bounded by a  
11 drainage system from Douglas Lake through Onnie Lake  
12 and so on.

13 The eastern side, which would be outside  
14 of the proposed park expansion where, in fact, we had  
15 proposed harvesting operations; the western side of  
16 that drainage system being unallocated timber that  
17 would have been part of the new parks -- or the  
18 proposed park expansion and we have not crossed that  
19 drainage system in this plan, we did not propose to  
20 cross that drainage system, therefore, we were not  
21 proposing to allocate or harvest wood in the area of  
22 the expansion and that area was what generated this  
23 calculation.

24 Q. All right. So if I can sum this up,  
25 am I correct in saying that within the period of this



1 five-year plan any of the land that was part of a  
2 proposed park expansion was not allocated for harvest?

3 A. That's correct. Again, except for  
4 that 120 metres that you see in this area of concern.

5 Q. All right.

6 A. I think -- okay.

7 Q. Fair enough. Now, can someone on the  
8 panel tell us when we can expect to have a decision as  
9 to whether this park will be expanded or not?

10 MR. FREIDIN: What has that got to do  
11 with what we are here to decide, Mr. Chairman? I mean,  
12 that may be a very interesting question, but what has  
13 it got to do with this hearing?

14 THE CHAIRMAN: How is it relevant to the  
15 planning process before us?

16 MS. SWENARCHUK: Well, what we have seen  
17 is that in the timber management planning a calculation  
18 has been done of the timber values that will be lost if  
19 the park is expanded.

20 For those members of the public who have  
21 a concern with park expansion, it is reassuring to know  
22 that any of those areas covered by this plan are, in  
23 fact, protected.

24 We don't know that that's true of the  
25 additional area that Mr. Multamaki has referred to and

1       which have not yet been allocated. This issue could be  
2       resolved and we would know whether these non-timber  
3       values are going to be protected or not if we could  
4       have some idea --

5                   THE CHAIRMAN: But are not the parks  
6       exempted from the EA process, essentially? I mean --

7                   MR. FREIDIN: Mr. Chairman, I think there  
8       may be something that works in terms of environmental  
9       assessments for parks.

10                   But, again, Ms. Swenarchuk has indicated  
11       that it would be of interest to certain people to know  
12       what may happen in the future to an area on the other  
13       side of the drainage area. If, in fact, it becomes an  
14       allocated area, will it be protected in the same  
15       fashion.

16                   Well, we are dealing with a hypothetical.  
17       We have a situation where there was an allocation, part  
18       of which was included in the proposed park expansion,  
19       it was dealt with in a certain way, it was documented  
20       in a certain way, whether acceptably or not.

21                   That's the issue, Mr. Chairman. I don't  
22       think that we are here to deal with what might happen  
23       in other areas in the future.

24                   I mean, if that sort of examination is  
25       allowed, then there are a million different questions

1       that people would like to get the answer to while we  
2       are here and we have a bunch of people here from the  
3       Ministry of Natural Resources, and we would be here  
4       forever.

5                   MS. SWENARCHUK: Mr. Chairman, the park  
6       certainly may be exempted from this EA, but the land I  
7       am questioning about is not now part of a park, it is a  
8       land that clearly has certain non-timber values  
9       attached to it or it would not presumably have been  
10      part of a proposed park expansion.

11                   It is land with a certain non-timber  
12      value that is within this management unit and which may  
13      potentially be allocated.

14                   THE CHAIRMAN: But is it not the case,  
15      Ms. Swenarchuk, that if it weren't designated as a park  
16      it could be treated like any other land base and dealt  
17      with in accordance with the planning process?

18                   And if there were values within that land  
19      base that had to be considered and the result of the  
20      planning process was that there was no harvesting  
21      allowed for a variety of reasons, there wouldn't be any  
22      harvesting allowed.

23                   The point is, the fact that it is  
24      proposed for expansion as a park really doesn't mean  
25      anything; does it, if in fact at the time the plan is

1 going through it hasn't yet been designated as a park.  
2 I mean, there may be all kinds of lands proposed for  
3 future expansion for parks or new lands considered for  
4 new parks.

5 MS. SWENARCHUK: What it does mean, Mr.  
6 Chairman, is that certain non-timber values have been  
7 identified on that land or it would not be considered  
8 for park status.

9 I'm prepared to leave the question. I'm  
10 prepared to leave the question having identified that  
11 the land covered within this management unit has, in  
12 fact, all been made subject to a reserve, but we  
13 obviously have some concern as to whether -- what does  
14 a proposed park expansion mean if in the interim it  
15 could have been logged, is the question.

16 MR. FREIDIN: That's a different  
17 question. If she wants to ask how a proposed park  
18 expansion perhaps is addressed or is looked at by a  
19 planning team, that's one question. That's a different  
20 question than what I understand she asked.

21 She admitted that the area that she is  
22 concerned about is an area which is not even in the  
23 proposed park expansion.

24 MS. SWENARCHUK: Well, I was going to  
25 leave it; but, all right, we will put that question to



1 the planners.

2 Q. Mr. Bisschop, is there a provincial  
3 policy which indicates how proposed or considered park  
4 expansion areas will be treated during the timber  
5 management planning process?

6 MR. BISSCHOP: A. I am simply not aware  
7 of that, Ms. Swenarchuk.

8 Q. So, to your knowledge as a planner,  
9 there is no provincial policy?

10 A. To my knowledge, because I am not  
11 aware of that part of what the Ministry deals with  
12 provincial parks.

13 MR. KENNEDY: A. I can speak from my  
14 experience, Ms. Swenarchuk, that in the areas that I  
15 worked in there was candidate parks proposed and for  
16 each one of those parks I believe there was an interim  
17 management statement that was providing guidance to all  
18 MNR staff relative to what kind of activities were  
19 permissible within those boundaries during the interim  
20 period for when the area was designated as a candidate  
21 up until the time that it would go into regulation as a  
22 park status.

23 So there is interim direction, I believe,  
24 for each one of the parks that would fall under that  
25 category.

1 Q. An interim direction to do what, Mr.  
2 Kennedy?

3 A. Well, we would outline which kind of  
4 activities are permissible to occur within that park  
5 boundary.

6 THE CHAIRMAN: Is that set out in a  
7 directive or a policy?

8 MR. KENNEDY: I'm not sure the exact kind  
9 of authority under which that statement is released. I  
10 don't recall, but it is one that was taken as a given  
11 to planners.

12 MS. SWENARCHUK: Q. And did you have any  
13 such interim statement with regard to the Woodland  
14 Caribou Park proposed expansion, Mr. Multamaki?

15 MR. MULTAMAKI: A. I don't think -- I  
16 don't honestly remember. I'm not sure it ever came up  
17 as an issue because the park boundary coincided with  
18 the area of concern and, in fact, operations were not  
19 going to take place inside that park.

20 It really was a non-issue. I mean, no  
21 activities were going to take place, why go looking for  
22 trouble if it's not going to happen.

23 Q. Did you want to say something, Mr.  
24 Groves?

25 MR. GROVES: A. No, I think it has been

1 covered, other than in the management plan that I was  
2 involved in writing there was a candidate park that was  
3 identified in DLUG and we received our directions to  
4 follow the management planning, carry out timber  
5 management activities outside of the area of the  
6 candidate park.

7 Q. And which candidate park was that?

8 A. Proposed change to Missinaibi Lake  
9 Provincial Park.

10 MR. FLEET: A. And, Ms. Swenarchuk, we  
11 have an example in the Timmins District right now. I'm  
12 not sure whether it's a candidate park or a newly  
13 regulated park, the Dana Jowsey Park.

14 The direction that has been followed by  
15 the Timmins District is that in the preparation of  
16 timber management plans there is a parks representative  
17 on the plan.

18 Conversely, when they initiate the  
19 preparation of plan for that park, if it has -- or does  
20 go to regulation, there will be a unit forester on that  
21 plan and, in the meantime, we simply stay away from  
22 allocating for harvest or any timber activity within  
23 the bounds of that, whether it is a candidate or a now  
24 regulated park.

25 Q. Now, Mr. Multamaki, when one looks at

1 the package of areas of concern identified here and the  
2 prescriptions that attach to them, what I notice is  
3 that 27 out of the 29 have a fisheries water quality  
4 component.

5 And I would assume that in the  
6 identification of those areas of concern the Fish  
7 Habitat Guidelines were the guiding document; were  
8 they?

9 MR. MULTAMAKI: A. Yes, they were, with  
10 the qualification that in some of those instances  
11 tourism guidelines, in fact, established areas of  
12 concern that may, in fact, have been larger than would  
13 have been prescribed under the fisheries guidelines.

14 Q. Okay. So we see that, as I say, 27  
15 out of the 29 have a fisheries or water quality  
16 component.

17 My reading is seven of them have  
18 fisheries values alone, eight more have fisheries plus  
19 tourism, and with the exception of two, all the others  
20 have fisheries plus additional other values.

21 Now, the concern that arises in my mind  
22 when I see that is that through this process I think we  
23 have identified that the Fish Habitat Guidelines are  
24 mandatory for application in timber management plans in  
25 a way that, in our submission, no other guidelines are.



1                   And what I see in looking at this plan is  
2           that there hasn't been attention to the protection of a  
3           lot of values other than those that the Fish Habitat  
4           Guidelines made mandatory?

5                   A. I guess the only way I can address  
6           that is that other values had not been identified; for  
7           example, you can't protect something that isn't there.  
8           And I think with respect to things like moose habitat,  
9           for example, there was a biologist on the planning team  
10          and the nature of operations and the allocation process  
11          on the Red Lake Crown was, I guess, conducive to moose  
12          management within the Red Lake area.

13                   And, in fact, what you don't see are  
14          areas of concern for late winter and early winter  
15          habitat because of the break-up of the cut and,  
16          essentially, the diversification of habitat that's  
17          created as a result of that.

18                   And if you refer back to that 1:50,000  
19          scale allocation map, you will notice that there were a  
20          number of blocks scattered throughout the unit in the  
21          three key areas mainly and were relatively dispersed in  
22          nature.

23                   Q. All right. Well, let's take a look  
24          at the handling of the wildlife issue overall in the  
25          plan. If we look at page 6, that's the small Roman

1 numerals page (vi) at the beginning of this package, we  
2 see a listing of the provincial guidelines that were  
3 used for the development of the area of concern  
4 prescriptions.

5 And I note that -- just a little  
6 background. Mr. Multamaki, you will agree with us, as  
7 the Board has heard, we have provincial guidelines in  
8 the form of Moose Habitat Guidelines and Fish Habitat  
9 Guidelines and then we have other things called  
10 resource manuals which describe habitat protection for  
11 other species. Are you familiar with any of these  
12 other resource manuals?

13 A. Yes. I don't claim to be an expert  
14 on all of them obviously, but I am familiar with some  
15 of them.

16 Q. Did you write this section of the  
17 plan that has to do with wildlife management?

18 A. I guess the statement is that it was  
19 written under the planning team concept, but the  
20 individual that was, I guess, responsible was the  
21 biologist on the planning team at the time,  
22 particularly as it has a very heavy fish and wildlife  
23 slant to it and he was, in fact, the individual that  
24 put pen on paper.

25 Q. All right. Well, we have heard that

1 the resource manuals are used as well as the provincial  
2 guidelines, and I notice that in this list on this page  
3 we are missing two types of resource manuals that were  
4 in existence at that time and have been filed with this  
5 Board and that one would assume should have been taken  
6 into account here.

7 They are Exhibit 244, which are the  
8 Habitat Management Guidelines for Cavity Nesting Birds  
9 in Ontario which were produced in March of 1984, and  
10 Exhibit 245 which are the Habitat Management Guidelines  
11 for Warblers of Ontario's Northern Coniferous Forests,  
12 Mixed Forests or Southern Hardwood Forests, also in  
13 existence from March of 1984.

14 Now, I assume, given those two resource  
15 manuals are not listed in this list, that they were not  
16 taken into account; is that correct?

17 A. No. I think in this case I should  
18 perhaps pass it to Mr. McNicol who has discussed this  
19 area with Mr. Sobchuk only in that I'm not sure why  
20 they are not listed.

21 It may have been a case that we did not  
22 come across those -- that individual situation. For  
23 example, in cavity nesting -- with cavity nesting  
24 birds, on the Red Lake Crown you have to remember that  
25 it was subject to two large natural disasters in the



1 case of -- or natural events, in the case of Fire 7 and  
2 Fire 14.

3 There was a great deal of dead material  
4 out there that may have been consideration with respect  
5 to cavity nesting birds and that there was a great deal  
6 of habitat available to them out there. But I think  
7 that maybe Mr. McNicol can comment on this.

8 MR. McNICOL: A. I would just like to  
9 reiterate basically what Mr. Multamaki said. With  
10 regard to use of many of these manuals -- these  
11 resource manuals, their use is predicated on the value  
12 being identified, and I am specific now with regard to  
13 warblers. I would suggest that there were no  
14 inventories done for warblers in the area because it  
15 would have been felt to be unnecessary.

16 Cavity nesting birds, as Mr. Multamaki  
17 has said, natural disturbances especially in that area  
18 has created a large amount of dead and standing  
19 material, irrespective of the material that is in the  
20 forest, in the blocks that have been left behind  
21 because of the allocation that took place on the Red  
22 Lake Crown Management Unit.

23 Q. You are aware of the existence of the  
24 Atlas of Breeding Birds of Ontario, Mr. McNicol?

25 A. I am.



1                   Q. I just want to be clear on your  
2 position. You are not saying that these species don't  
3 exist in this management unit and, therefore, no  
4 consideration was necessary?

5                   A. No, I'm not.

6                   Q. No, because our investigation  
7 suggests that some of these species do exist and we  
8 don't see any reflection in the plan of any  
9 consideration having been given to their habitat needs  
10 in this plan.

11                  A. I understand what you are saying, Ms.  
12 Swenarchuk. What I said was that in terms of our  
13 direction from wildlife branch with regard to  
14 inventories that will take place in preparation for  
15 input in a timber management plan, that we are obliged  
16 to look at threatened and endangered species for those  
17 species that we know to exist as values in that  
18 particular area proposed for timber management  
19 planning, plus information necessary to carry -- or to  
20 exercise the Moose Habitat Management Guidelines with  
21 regard to areas that have been identified as concerns  
22 for that particular species, and also from a fisheries  
23 standpoint with regard to information that we must  
24 collect.

25                  Q. Mr. McNicol, if we look at page 6,

1       notwithstanding the natural conditions that exist on  
2       the management unit following the fires, you will  
3       notice that the planners have referred to draft  
4       guidelines for the protection of forest nesting and  
5       wetland nesting bird habitat for birds of Ontario  
6       wetlands for heronries, osprey, et cetera.

7                       So it seems to me they have listed a  
8       certain number. That doesn't mean that they thought  
9       they had to include specific prescriptions for them,  
10      but they have listed there the ones they considered.

11                      And I am suggesting that we are entitled  
12      to assume that these were not available to them or were  
13      not considered or we would see them on the list?

14                      A. And that's an assumption that I don't  
15      think either you or I can address, Ms. Swenarchuk.

16                      THE CHAIRMAN: Notwithstanding that those  
17      two resource manuals were not listed, would either you  
18      or Mr. Multamaki consider that either the songbirds or  
19      the cavity nesters would be in any danger from the  
20      allocations or activities proposed in the Red Lake Plan  
21      based on your knowledge of the habitat available  
22      generally?

23                      MR. McNICOL: Recognizing, Mr. Chairman,  
24      that our objective with regard to other wildlife  
25      species with regard to warblers, as a for instance, our

1 objective is to manage for viable populations on a  
2 provincial scope.

3 Given that in that particular area it had  
4 not been indicated as being -- or, sorry, provincially  
5 not threatened or endangered, no. That's saying also  
6 that it is quite possible that some cavity nesting  
7 birds would have been disrupted with regard to  
8 operations in that area, but looking at our objective  
9 from a viable population provincially, that  
10 perspective, no.

11 THE CHAIRMAN: So the bottom line is,  
12 even if you considered those two manuals specifically,  
13 would anything have changed over the way that the plan  
14 was prepared as prepared?

15 MR. McNICOL: Without the identification  
16 of a specific value in that particular area - and there  
17 may have been an area where there was some significant  
18 cavity nesting activity that was known to the district,  
19 perhaps as a result of a previous disturbance - they  
20 could have utilized that manual with regard to  
21 protection of that particular area.

22 I don't believe that that took place in  
23 this plan. Certainly there is no areas of concern that  
24 deal with that.

25 MS. SWENARCHUK: Q. I am left slightly



1 concerned, Mr. McNicol, with the use that is made of  
2 the resource manuals. It was my understanding from  
3 evidence that went earlier that we were urged to rely  
4 on the existence of these manuals and their use in  
5 timber management planning in order precisely to  
6 protect those viable populations over the long-term,  
7 given as we know that we don't actually have population  
8 data on most of those species.

9 Now, in your role now as an expert  
10 biologist within the Ministry, perhaps you could  
11 clarify for us the use that is to be made of these  
12 resource manuals?

13 Am I wrong in expecting that the manuals,  
14 to the extent they exist, will be reviewed and their  
15 prescribed protective measures taken into account with  
16 each timber management for which that species can be  
17 expected to exist in the area?

18 MR. McNICOL: A. I think you have to  
19 recognize, Msr. Swenarchuk, from previous evidence -  
20 and I am speaking particularly of Panel 7's evidence  
21 with respect to inventory- that the utilization of  
22 those manuals or the guidelines are predicated on the  
23 identification of a value. So if you have not  
24 identified a value in that particular area of  
25 operation, then it precludes use of the guidelines.



1                   Q. So the species that aren't identified  
2 aren't likely to be protected?

3                   A. Identified how, as a value?

4                   Q. Right.

5                   A. We could get into some -- we could  
6 get into a lot of evidence that's already been given  
7 with regard to guidelines and the inventory and how the  
8 guidelines are set up and what they are intended to  
9 achieve, but I don't think that's going to benefit  
10 either of us or the Board.

11                   But very briefly and, again, the use of  
12 those manuals is when you have an identified value.

13                   Q. And if you don't go out and look for  
14 the value you won't have to use the manual?

15                   A. Perhaps we should -- since we are  
16 into this, perhaps we should get to the policy with  
17 regard to the information that we are obliged to  
18 collect from a wildlife standpoint for input into the  
19 timber management planning process. It is the  
20 direction that we are given from our head office with  
21 regard to what has to be collected. I think you have  
22 heard this evidence, but perhaps if you want to --

23                   Q. No. The specific policy we saw  
24 before,

25                   A. Right.

1 Q. I think I know what you are referring  
2 to.

3 A. So you know where I am coming from  
4 then?

5 Q. If you have something new to add that  
6 would be of assistance to the Board, I think you should  
7 proceed, otherwise I think we know what the evidence  
8 says to date.

9 A. Well, our direction is clear from  
10 Toronto in terms of our policy, the information that we  
11 collect for input into the timber management planning  
12 process.

13 Q. Okay. Well, let's move on to the  
14 issue of caribou management then. As we have  
15 identified, this management unit borders on and even  
16 overlaps I think parts of Woodland Caribou Park; does  
17 it not?

18 MR. MULTAMAKI: A. Yes, it does.  
19 Caribou Wilderness Park, in fact, overlaps into the Red  
20 Lake Crown on the northwestern corner or the western  
21 portion of the unit.

22 Q. And we see on page 8, again small  
23 Roman numeral (viii), of this introductory section to  
24 the AOC package on wildlife habitat concerns, paragraph  
25 11, that:

1 "It is necessary to define the big game  
2 management priority that exists for the  
3 area proposed for timber harvesting.  
4 While caribou and moose are found  
5 throughout much of the district, portions  
6 of the district may be managed primarily  
7 for moose while other portions may be  
8 managed for caribou."

9 Now, do you agree with me, Mr. Multamaki,  
10 that it is not possible to see in this plan what areas  
11 of the management unit are being managed for moose and  
12 which, if any, are being managed for caribou?

13 A. No, in this timber management plan it  
14 doesn't show the delineation, I guess, between areas  
15 being managed for moose, areas being managed for  
16 caribou. I would imagine those are contained in other  
17 plans.

18 Q. Which other plans did you have in  
19 mind, Mr. Multamaki?

20 A. The ones I am thinking of have to do  
21 with the wildlife management. Maybe Mr. McNicol can  
22 comment on how that is delineated.

23 MR. McNICOL: A. I think, Ms.  
24 Swenarchuk, we have talked - I can't remember exactly  
25 in what panel - but Mr. Tedesco who was an employee of

1 MNR in Red Lake produced a plan for that particular  
2 district that looked at the capability of the district  
3 land base to produce caribou or moose, and he broke it  
4 out in such a way that the biologist considering future  
5 plans could determine if he wished to and really that  
6 is a decision he has to make with regard to which  
7 guidelines to apply.

8 It gave him that first cut, if you will,  
9 as to the capability of land base to produce either  
10 caribou or moose, where was the best suitable habitat.  
11 So that plan - I'm not sure in what panel we talked  
12 about that - but it may have been even in Panel 7.

13 MR. FREIDIN: It was filed as an exhibit  
14 in Panel 10. I don't know what the number is, Mr.  
15 Chairman.

16 MR. McNICOL: I think that's what Mr.  
17 Multamaki is referring to.

18 MS. SWENARCHUK: All right. Well, the  
19 Anglers and Hunters asked an interrogatory on this  
20 point and I would like to file that now.

21 THE CHAIRMAN: Exhibit 891.

22 MS. SWENARCHUK: That's OFAH Question No.  
23 52 from this panel.

24 MR. HUFF: (handed)

25 THE CHAIRMAN: Thank you.





1 might add something. I believe that the necessity of  
2 identifying where caribou would be managed arose during  
3 the plan preparation and the decision as to which base  
4 maps, which area where caribou would be managed has  
5 only occurred within the last year since the plan was  
6 prepared.

7 And when we were answering this  
8 interrogatory I had communication with Red Lake  
9 District to get this information that we have used in  
10 response to Interrogatory No. 52 for OFAH and have  
11 recorded that as such.

12 Q. All right. Well, with respect to  
13 present and future plans then, Mr. Kennedy, what we are  
14 looking at here is what a member of the public can  
15 learn about wildlife management in the area covered by  
16 any specific plan.

17 And would you not agree with me that it  
18 would be helpful for the plan to identify the strategy  
19 of wildlife management that is being utilized in it,  
20 including such a fundamental distinction as what areas  
21 are being managed for moose habitat and which for  
22 caribou habitat?

23 A. If there was an overlap between those  
24 areas proposed for operations for the five years, I  
25 would expect to see that kind of indication and the

1 kind of management approach that would be used.

2 Q. And is that something that the  
3 planners are obliged to provide in current plans?

4 A. Currently it is not a requirement per  
5 se, no.

6 Q. Is there a requirement that -- I just  
7 want to be clear. In your training sessions then and  
8 in your approach to how the plans are drawn up, there  
9 is not at this time a requirement that the wildlife  
10 management strategy for the unit be explained; is that  
11 correct?

12 MR. FREIDIN: The wildlife management  
13 unit you mean?

14 MS. SWENARCHUK: No, the wildlife  
15 management for the unit be explained.

16 MR. KENNEDY: I would say the only  
17 explanation that's provided right now is by having the  
18 values documented on the values map, but beyond that  
19 there is no further requirement.

20 MS. SWENARCHUK: Q. All right. Now,  
21 with respect to -- turning to Roman numeral (iv), near  
22 the top of the page we see the heading: Endangered  
23 Flora and Fauna: flora example, orchids and lady  
24 slipper; fauna example, piping plover nesting habitat.

25 Now, I see no reference in reading this

1 plan to any form of management to protect these  
2 species.

3 First of all, Mr. Multamaki, are you  
4 aware whether any surveys or inventories were done to  
5 identify the existence of these species?

6 MR. MULTAMAKI: A. I'm not aware of any  
7 surveys that were done for either of those at that  
8 point in time; not to say that they weren't done, but I  
9 am not aware of them.

10 Q. Okay. But, again, we don't see  
11 anything in the plan that indicates where, if at all,  
12 management for these species was to be protected or  
13 instituted?

14 A. Certainly they were not identified  
15 through the area of concern planning process as  
16 specific values or areas of concern.

17 MR. McNICOL: A. Ms. Swenarchuk, I may  
18 be able to help you with that. I had the same question  
19 with Mr. Sobchuk and, first of all, the lady slipper  
20 orchid, as you are aware, is not endangered. He  
21 indicated to me that these were examples of species  
22 that, if they were in the area or known to be in the  
23 area, that surveys would be conducted.

24 The piping plover doesn't exist in that  
25 particular district. It does exist in Lake of the



1 Woods area, Kenora District, as you are aware, but it  
2 does not exist in the Red Lake Plan area.

3 There was some concern about nesting  
4 habitat on sandy beaches and such, which is the  
5 preferred nesting habitat, and there are no recorded  
6 instances in the files at that time of piping plover in  
7 the district.

8 Q. Well, do you know if surveys were  
9 done for any other endangered flora or fauna in the  
10 district?

11 A. If you are speaking of bald eagles, I  
12 can't speak with certainty as to whether there were any  
13 new surveys done for bald eagles, but as with every  
14 other district in the province there is an ongoing  
15 inventory of bald eagle nesting sites.

16 Mr. Groves may be able to address whether  
17 there was any new surveys done for bald eagles, I  
18 can't.

19 Q. Do you want to address that?

20 MR. GROVES: A. Yes. We have had an  
21 ongoing survey every year of existing bald eagle sites  
22 and --

23 Q. Any other species?

24 MR. FREIDIN: And what, I'm sorry?

25 MR. GROVES: Of existing bald eagle

1 sites. I'm not aware of any other surveys that we have  
2 done in recent time.

3 MS. SWENARCHUK: Q. All right. Now,  
4 getting back to what we see on this page, Mr. McNicol,  
5 don't you agree with me that a member of the public  
6 looking at these introductory pages in which they see  
7 an outline of the management of certain values are  
8 entitled to assume, if they see some species listed  
9 here, that these are examples of species for which some  
10 sort of protective measure was instituted, or was at  
11 least considered, and that it is confusing and  
12 misleading for the planners to have listed these  
13 species as possible examples when, in fact, they are  
14 not species for which any particular prescription was  
15 even considered?

16 MR. McNICOL: A. I agree with you.

17 Q. So this is not the form in which we  
18 should see this sort of information recorded in the  
19 future; would you agree?

20 THE CHAIRMAN: What would you suggest in  
21 that spot, no particular species endangered, or what  
22 would you put in there?

23 MR. McNICOL: No, I would have the  
24 pertinent species. The bald eagle which is an  
25 endangered species and does exist in Red Lake District

1 would be a much better example than piping plover.

2 MR. FREIDIN: Is Ms. Swenarchuk  
3 suggesting that there is a concern about having lists?

4 THE CHAIRMAN: Well, there may be a  
5 concern about having lists that have no relevance to  
6 the particular area under consideration.

7 MS. SWENARCHUK: Thank you, Mr. Chairman.

8 Q. I would like to question the  
9 witnesses with regard to a description of Woodland  
10 Caribou Provincial Park that is produced in a Ministry  
11 document because the values identified in this park  
12 border on and perhaps overlap in that management unit.

13 So if we could take a look at that now.  
14 It is an excerpt from the Woodland Caribou Provincial  
15 Park background information.

16 THE CHAIRMAN: Are you going to produce  
17 that?

18 MR. FREIDIN: I am just wondering if Ms.  
19 Swenarchuk can indicate where she is going with this  
20 topic. I just don't see where this is going to lead us  
21 to.

22 THE CHAIRMAN: I am sure she is going to  
23 enlighten us.

24 MS. SWENARCHUK: This management unit's  
25 boundaries overlap the boundaries of Woodland Caribou

1 Park. We see in several paragraphs here a concise  
2 description of the particularly complex and important  
3 values of flora and fauna of that park area, and my  
4 question will be simple: Did the plan take into  
5 account protection of this kind of complexity and, if  
6 so, where do we see it reflected in the plan.

7 MR. FREIDIN: Very well.

8 THE CHAIRMAN: Exhibit 892.

9 ---Exhibit NO. 892: Excerpt from the Woodland Caribou  
10 Provincial Park Background  
Information.

11 MS. SWENARCHUK: And essentially what we  
12 see in these paragraphs, Members of the Board, are that  
13 Woodland Caribou Park includes both characteristics of  
14 the boreal region of Ontario and the prairie influence,  
15 as we see in the second paragraph.

16 And so we see a -- and in the last line  
17 then:

18 "Stations for green frogs, snapping  
19 turtle, muskellunge, racoon, eastern  
20 garder snake and pine warbler suggest a  
21 minor influence from the more southern  
22 transition forest region."

23 So we have three types of biotic  
24 communities represented. And would you agree with me,  
25 Mr. McNicol, that this reflects an interesting and



1 valuable representation of different biotic  
2 communities?

3 MR. McNICOL: A. Yes.

4 Q. All right. And would you agree with  
5 me that in the material that we are presented with with  
6 regard to the area of concern planning package we don't  
7 see any reflection of an overall management strategy  
8 towards protection of these values?

9 A. Well, I am confused.

10 Q. All right.

11 A. You are talking about Woodland  
12 Caribou Park and you want to know whether within the  
13 timber management plan, the Red Lake timber management  
14 plan there is recognition of this diverse flora and  
15 fauna that exists in the park?

16 Q. The park with which the management  
17 unit boundaries overlap, yes. Well, let's step back.

18 We have a management unit that is -- that  
19 borders on and overlaps Woodland Caribou Park with  
20 these complex and important community values. My first  
21 question would be: Did the timber management planners  
22 take into account and do any kind of surveys or  
23 inventories within the management unit to indicate  
24 whether those complex communities also exist within the  
25 management unit?

1                   And I would assume the answer to that  
2 question is no. Is that correct, Mr. Multamaki?

3                   MR. MULTAMAKI: A. I note that some of  
4 these, for instance, animals and that that are listed  
5 here do occur in a few specific areas on the Red Lake  
6 Crown.

7                   However, I would also like to point out  
8 that Woodland Caribou Park, the boundaries on that park  
9 were established, as I understand it, for a reason and  
10 it has to do with the flora and fauna that are found in  
11 the area and the geographical or topographic features  
12 within the park.

13                   I can only comment on a broad outlook or  
14 a broad perspective, but the Red Lake Crown itself  
15 geographically or topographically is not equal to  
16 what's within the park boundary; the two aren't the  
17 same. In fact, within the park you find it extremely  
18 rough, rocky, considerably different with respect to  
19 topographic features and so on.

20                   So I'm not sure that the two, in fact,  
21 are equal in all aspects.

22                   Q. And I take it that no data exists to  
23 indicate the extent to which the features found in  
24 Woodland Caribou Park are found to a greater or lesser  
25 degree as well on the Crown lake management unit; is

1       that right?

2                   A. Well, with respect to species such as  
3 muskellunge, I can think offhand of at least one lake  
4 within the Red Lake Crown. In fact, it is within the  
5 Township of Madsen that has muskellunge in it. That's  
6 the only lake I can think of, quite frankly, that is  
7 outside of the park area.

8                   As far as the other species, I personally  
9 have seen pelicans on Red Lake out in the middle of Red  
10 Lake on small rocks feeding or whatever. So I have  
11 seen some of these elsewhere and we are aware that they  
12 are outside of the park, what significance, I'm not  
13 sure.

14                   I think maybe the biologist that was on  
15 the planning team would be better able to answer that  
16 question or Mr. McNicol.

17                   MR. McNICOL: A. I can't speak obviously  
18 to the incidence of these species outside of the park,  
19 but I assume that your concern, Ms. Swenarchuk, is  
20 based on the premise that disturbance could impact on  
21 these particular species?

22                   Q. Certainly that's our concern and as  
23 well, Mr. McNicol, we are privileged with the Crown  
24 lake management plan to have considerable amount of  
25 information, more than is usually the case when we

1 examine a management plan, on identified flora and  
2 fauna very close to the area of this plan.

3 Those identified flora and fauna have a  
4 high value sufficient to have created a park, and I  
5 guess my question would be, and it would be our  
6 position, that we would hope that the timber management  
7 planners for an immediately adjoining area would take  
8 into account in devising their plan whether those  
9 identified neighbouring high value flora and fauna  
10 overlap into the timber management planning area as  
11 well, and whether we can then see in the plan some  
12 consideration of the existence of those values and the  
13 necessary protective measures.

14 I simply am interested to learn whether  
15 or not the timber management planners on Red Lake took  
16 into account this complex community that existed in  
17 such proximity and any overlap of it into the  
18 management unit.

19 And I suggest to you that we don't see in  
20 the description of non-timber values protection in this  
21 plan any reflection of consideration of those  
22 complexities.

23 MR. McNICOL: A. I can't speak to that,  
24 as I said.

25 MR. MULTAMAKI: A. I guess just as a



1 comment, Ms. Swenarchuk. One of the comments made in  
2 here is that the prairie influence in the park's fauna  
3 is indicated by the presence of such species as  
4 Franklin ground squirrel and so on. I'm not sure what  
5 the prairie influence would be on the Red Lake Crown  
6 Management Unit. We are a significant distance from  
7 the prairie, which essentially is Manitoba.

8 Also, I notice that a number of the lakes  
9 that I identified in here halfway down the second  
10 column where it says:

11 "Several unusual records were noted  
12 however. White pelicans were seen on  
13 Simeon, Artery and Musclow Lakes but all  
14 three may well represent post-breeding  
15 wanderers, two Foster's terns at  
16 Larus Lake..." and so on.

17 Those lakes are, in my estimation, a  
18 significant distance from the boundary of the Red Lake  
19 Crown Management Unit, and I'm not talking a few miles,  
20 I'm talking a number of miles.

21 For example, if I'm not mistaken, Larus  
22 Lake is, you know, in the neighbourhood of 20 to 30  
23 miles to the west. The park itself is extremely large  
24 in size when you look at it and the areas that have  
25 been identified here are quite distant from the

1 boundaries.

2 THE CHAIRMAN: Mr. Multamaki, is not the  
3 bottom line concern that had any of these species been  
4 identified as a value by anyone, by the local forester,  
5 by any member of the public who brought it to the  
6 attention of the Ministry, had those values or  
7 existence of those species been identified, they would  
8 have fallen into the area of concern planning process;  
9 is that not what, in fact, occurs?

10 MR. MULTAMAKI: Yes, they certainly would  
11 have.

12 THE CHAIRMAN: And the fact that they  
13 have not been identified in those areas by anybody,  
14 notwithstanding you didn't conduct specific surveys to  
15 go out and specifically look for them?

16 MR. MULTAMAKI: No. By the same token,  
17 not to mislead anybody, we obviously know that woodland  
18 caribou are there, moose are there, beaver, black bear,  
19 otter, muskrat, mink, fish or marten, weasle and so on  
20 which are identified.

21 Now, these animals, as I understand it,  
22 are quite common right across the boreal forest and not  
23 just a part of Woodland Caribou Provincial Park.

24 THE CHAIRMAN: But they would be covered  
25 by your other guidelines--

1 MR. MULTAMAKI: Guidelines.

2 THE CHAIRMAN: --whether it is the  
3 featured species approach or one of the other specific  
4 guidelines?

5 MR. MULTAMAKI: That's correct.

6 MR. GROVES: If I can add one thing to  
7 that. When you talk about significant features, like  
8 the Franklin ground squirrel on Carroll Lake, that  
9 Carroll Lake is split by the Ontario/Manitoba  
10 government.

11 When we looked at possible park extension  
12 we found that a lot of the features that we talked  
13 about we had captivated within that park boundary and  
14 we have looked at that, and any of the features that we  
15 have identified, we knew about, were input into other  
16 plans, but...

17 MR. FREIDIN: When you said the  
18 Ontario/Manitoba government, do you mean boundary?

19 MR. GROVES: That's the boundary, yes.

20 MS. SWENARCHUK: With respect to your  
21 comment, Mr. Chairman, about the featured species  
22 approach, just so we are clear.

23 Q. Mr. McNicol, I think we discussed  
24 this almost a year ago. Isn't it correct that caribou  
25 and moose don't prefer the same type of habitat overall

1 and that woodland caribou, for example, prefer mature  
2 to overmature forest with lichen which forms a major  
3 part of their diet; is that not correct?

4 MR. McNICOL: A. That is correct, yes.

5 Q. So featured species management for  
6 moose, I think you've agreed with me in the past, will  
7 not necessarily provide caribou habitat?

8 A. You're correct in that it does not --  
9 when you speak featured species, it does not indicate  
10 that caribou cannot be a locally featured species.

11 Q. But we don't see, as we have  
12 indicated before, any detail in this plan about the use  
13 of that strategy?

14 A. No, and you're quite right. I spoke  
15 to Mr. Sobchuk about that and the area that is dealt in  
16 this particular operating plan is the area which Mr.  
17 Tedesco's report indicated had high capability for  
18 moose not caribou.

19 Q. And wouldn't it have been helpful to  
20 have that stated in the plan?

21 A. I would agree with you.

22 Q. Mr. Multamaki, would you agree with  
23 me that there is no complete listing in this plan of  
24 the species that exist in the management unit?

25 MR. MULTAMAKI: A. No, I guess there is



1 not a listing of all of the species that are contained  
2 within the Red Lake Crown Management Unit. We are  
3 talking wildlife species here--

4 Q. Right.

5 A. --or all flora and fauna species?

6 Q. Well, we can extend the question to  
7 both I guess.

8 A. No, I would say that we have not  
9 examined every square inch of the Red Lake Crown and  
10 got a complete inventory of every single item that's  
11 out there.

12 Q. Well, more particularly, Mr.  
13 Multamaki, there isn't an indication even of the  
14 wildlife species that exist there?

15 A. I would say there is a pretty good  
16 indication of the wildlife species that are there.  
17 Again, you are asking a biological question which Mr.  
18 McNicol is probably better able to address, but it is  
19 my understanding that the planning -- through the  
20 planning team situation the biologist brings a large  
21 amount of that information with him.

22 Q. Well, it's a really simple question,  
23 Mr. Multamaki. A member of the public looking at this  
24 plan cannot see a listing of what species exist there;  
25 isn't that correct?

1 A. No, that's correct.

2 Q. Nor is there any overall assessment  
3 of the impacts of timber operations on the population  
4 levels of any species?

5 A. Not in this plan there is not.

6 Q. And there is no quantitative  
7 assessment of the impacts of timber operations either  
8 on the land base or on wildlife, there are no numbers  
9 for wildlife population levels affected and no  
10 assessment, for example, in a quantitative fashion of  
11 the amount of erosion, for example, that could be  
12 created by a certain timber management operation; isn't  
13 that correct?

14 A. No, there is no quantitative  
15 measurement of those items that you've listed.

16 Q. Now, with respect to aesthetics, Mr.  
17 Multamaki, there are references in a number of the  
18 areas of concern that given sizes of reserves will  
19 satisfy the aesthetic concerns. Can you indicate how  
20 the planning team decided what kind of prescription  
21 would satisfy an aesthetics concern?

22 A. Yes. I think one of the key vehicles  
23 was the -- or there were actually two key areas that  
24 were used. One was the planning team approach in that  
25 you had a number of multi -- or individuals from

1 multi-disciplinary backgrounds who were able to I guess  
2 provide input into that and, in addition to it, there  
3 was both public and interest group input into the areas  
4 of concern, particularly where -- in some instances  
5 where aesthetics were a key requirement.

6 And I refer back to the Little Vermilion  
7 Lake situation where, in fact, aesthetics were one of  
8 the keys that were of concern to local tourist  
9 operators there and, in fact, they had significant  
10 input into the final prescription that was developed  
11 for that area of concern, area of concern No. 29 and,  
12 in fact, that their needs and their requirements were  
13 met through a negotiated process which was three-way;  
14 between the Ministry, the local timber operator who had  
15 the licence for the area, and the tourist operator.

16 Q. Did you ever go out and ask  
17 recreationists what size of reserve would satisfy their  
18 aesthetics concerned around, for example, how you use  
19 canoe routes?

20 A. I think that question is fairly  
21 encompassing in that it's fairly common for  
22 recreationalists of all natures, not just canoeists, to  
23 come in and talk to various individuals in the Ministry  
24 of Natural Resources.

25 For example, it is fairly common for

1 people to come in, talk to the district manager or the  
2 unit forester or the biologist and make their  
3 requirements or needs known, and this happens both  
4 formally and informally.

5 And I guess with respect to your  
6 question: Did we actively go out with a questionnaire  
7 or ask people: What do you think about this, this and  
8 this, that was done I guess more through the invitation  
9 to participate and the four formal opportunities where  
10 they had the opportunity to come in and make their case  
11 known with respect to specific areas on the Red Lake  
12 Crown.

13 Q. Well, are there any areas that you  
14 can point to in this plan where recreationists were  
15 specifically consulted with regard to the size of a  
16 reserve being put around, for example, a canoe route,  
17 recreationists as opposed to tourist operators?

18 MR. FREIDIN: I didn't catch the  
19 question.

20 MS. SWENARCHUK: Whether recreationists  
21 were specifically consulted with regard to the size of  
22 a reserve to be put around a canoe route.

23 MR. MULTAMAKI: Not that I can remember.  
24 However, those individuals were contacted, for example,  
25 through the mail-outs and so on. Had they made their,



1 I guess, interest known with respect to canoe routes  
2 they were contacted and there was no real input into  
3 it; i.e., they did not come into the information centre  
4 and say: We have a problem with what you are doing  
5 here, or we have a concern, or we need this, this or  
6 that on it.

7 MS. SWENARCHUK: Q. All right. Let's  
8 talk about archaeological sites, Mr. Multamaki.

9 If we go back to Exhibit 882, the last  
10 page of that exhibit is a letter to Ms. G. Raznovich of  
11 the Ministry of Citizenship and Culture from the  
12 district manager, Mr. Everley, and he indicates in the  
13 second paragraph, midway -- the last page of the  
14 exhibit, Mr. Chairman.

15 THE CHAIRMAN: 882?

16 MS. SWENARCHUK: Right. It has got page  
17 171 at the top, the very last page.

18 THE CHAIRMAN: Very well.

19 MS. SWENARCHUK: Q. In the middle of the  
20 second paragraph in the letter, he indicates that:

21 "All archaeological sites identified  
22 during the West Patricia Land Use  
23 planning exercise will be protected with  
24 a 120-metre no-cut reservation."

25 And then -- well, I don't see in the plan

1 any indication of a strategy for protection of these  
2 sites. And I wondered if you could explain what was  
3 done in relation to the archaeological sites in this  
4 plan?

5 Would you agree with me, first of all,  
6 Mr. Multamaki, that within this area there are a number  
7 of sites that have been identified through the West  
8 Patricia Land Use plans process?

9 MR. MULTAMAKI: A. Yes.

10 Q. Specifically on some of the lakes  
11 within the allocated area there were archaeological  
12 sites identified?

13 A. Within the allocated area?

14 Q. Yes.

15 A. Not to my knowledge.

16 Q. All right. So are you saying then  
17 that in the areas that were allocated there were no  
18 archaeological sites identified previously?

19 A. That's correct. Perhaps I should  
20 provide a little bit of history on this letter, and  
21 what you have done is pulled out a letter that, in  
22 fact, was in response.

23 I had been talking back and forth to Ms.  
24 Raznovich over I guess a two-year period about  
25 archaeological sites. In fact, what this doesn't state

1 is that I had previously telephoned her and talked to  
2 her over the telephone about archaeological site and  
3 she made it plain to me that she'd like to have had a  
4 map to look at.

5 The problem was, is that they were all  
6 one of a kind. To reproduce maps that you have seen  
7 presented in evidence here was very difficult. The  
8 alternative I offered to -- say: Look, you know, if  
9 you want to come up and see them, or if we can bring  
10 them down at some convenient time we can look at them  
11 and go over them.

12 Q. Excuse me, is your microphone on, Mr.  
13 Multamaki?

14 A. Yes, I think it is. I think I've got  
15 the one that is barely working.

16 Q. I am having difficulty hearing you.

17 A. And what happened was that I offered  
18 to take the maps down and sit down with her, discuss  
19 them and so on at a time that was convenient, or if she  
20 could come up to Red Lake and have a look at it we  
21 could discuss, you know, where these archaeological  
22 sites occurred.

23 As a result of that, she made it quite  
24 plain that: Look, all of those archaeological sites  
25 were already identified on maps during the West

1 Patricia Land Use planning exercise, rather than  
2 wasting both our times, go to the West Pat maps and use  
3 those maps and it would cover her concerns.

4 We discussed the size and I specifically  
5 at that time remember asking her what sort of  
6 protection these sites required, and she said it was --  
7 -- and I asked her: Would 120 metres be enough, and  
8 she said: Yes, it was more -- or it was sufficient to  
9 protect the value that was there. She seemed quite  
10 happy with the dimensions of the no-cut reserve around  
11 it or the no-disturbance area.

12 In fact, what took place was, through the  
13 allocation process we never allocated any timber that  
14 impacted on archaeological sites.

15 You have to remember that most of the  
16 archaeological sites that have been identified in the  
17 Red Lake District occur along the river systems --  
18 lakes and river systems, particularly Red Lake itself,  
19 and there are very few allocations that fall in close  
20 proximity to these areas or to these river systems.

21 Q. Were you using the West Patricia Land  
22 Use Plan Sensitive Areas Maps, Mr. Multamaki?

23 A. Yes, I think that was the title of  
24 them, it has been a few years since I looked at them.

25 Q. Part of my difficulty with this is



1       that that's all we have too and it is not very clear on  
2       some of these maps exactly where the archaeological  
3       sites exist, but it does certainly appear that there  
4       are sites all along Red Lake, and from the area of  
5       concern package it seems to me that there are allocated  
6       areas certainly within that area as well.

7               Are you saying then that the  
8       archaeological sites were taken into account and are  
9       protected in the reserves that were established in the  
10      area of concern package?

11             A. To the best of my recollection there  
12      were no archaeological sites impacted on within the  
13      allocations.

14             However, it is also important to realize  
15      that these archaeological sites occur adjacent to the  
16      lakeshore, at least that's my understanding from Ms.  
17      Raznovich, and that there is a 120-metre reserve  
18      generally on Red Lake on area of no-disturbance and, in  
19      fact, the two coincide should there have been an  
20      archaeological site. But to the best of my  
21      recollection none occurred in areas that were proposed  
22      for harvest.

23             Q. Are you aware of the ANSI program,  
24      Mr. Multamaki, areas of natural and scientific  
25      interest?

1 A. Yes, I am.

2 Q. And are you aware of whether there  
3 are any ANSIs in the Red Lake Crown Management Unit?

4 A. You mean at this point in time?

5 Q. Or whether there were at the time the  
6 plan was being developed?

7 A. I hesitate because I'm not sure about  
8 the status of (1) the proposed park expansion for  
9 Pakwash Provincial Park, whether it's considered an  
10 ANSI or not. I'm just not sure of the classification  
11 on that.

12 Q. That's the only one you are aware of  
13 in the area, though; is that right, Mr. Multamaki?

14 A. Well, like I said I'm not--

15 Q. Or potential one?

16 A. --sure whether it is or isn't an  
17 ANSI, what the actual status. I know it is a park  
18 reserve or whatever, but I'm not sure whether it is an  
19 ANSI or not.

20 Q. Well, do you know if any attention  
21 was given during the planning process to the existence  
22 of ANSIs in the management unit and any protective  
23 measures for them? It's not reflected in the plan if  
24 it was done.

25 A. To the best of my knowledge none were

1 identified and certainly they don't show up in the area  
2 of concern planning package. And had there been ANSIs,  
3 I would expect they would have been brought to our  
4 attention through the lands/parks representative on the  
5 planning team.

6 Q. Now, I would like to turn to the  
7 amendments of the plan or the areas of concern that  
8 have been filed since the plan itself was completed.

9 MS. SWENARCHUK: And these were provided  
10 to Mr. Bisschop last week, Mr. Chairman.

11 THE CHAIRMAN: Ms. Swenarchuk, can you  
12 give us an indication of whereabouts you are in your  
13 examination?

14 MS. SWENARCHUK: I am just about  
15 finished.

16 THE CHAIRMAN: And you are intending to  
17 finish today?

18 MS. SWENARCHUK: Yes.

19 THE CHAIRMAN: Very well. Who comes  
20 after you, is it Mr. Edwards?

21 MS. SWENARCHUK: Mr. Lindgren has about  
22 another half hour or hour and then I believe it will be  
23 Mr. Edwards.

24 THE CHAIRMAN: And how long do you  
25 believe you will be, Mr. Edwards?

1 MR. CASSIDY: My understanding is that it  
2 is our turn to go after --

3 MS. SWENARCHUK: Of course, yes.

4 THE CHAIRMAN: Oh, Mr. Cosman. Okay.

5 MR. CASSIDY: To accommodate Mr. Edwards  
6 if he wants to, we are prepared to, but we are prepared  
7 to go tomorrow.

8 THE CHAIRMAN: And you expect to be how  
9 long?

10 MR. CASSIDY: At the most half a day and  
11 as little as two hours.

12 THE CHAIRMAN: And after you is Mr.  
13 Edwards?

14 MR. EDWARDS: That's correct, Mr.  
15 Chairman.

16 THE CHAIRMAN: Would you be prepared to  
17 at least start tomorrow should Mr. Cosman finish early?

18 MR. EDWARDS: Yes, I will be prepared to  
19 start tomorrow.

20 THE CHAIRMAN: How long do you expect to  
21 be?

22 MR. EDWARDS: Since Ms. Swenarchuk seems  
23 to be covering all the areas that I was going to be  
24 asking questions about, I am down to about a day or a  
25 day and a half now.



1 MR. FREIDIN: Keep going.

2 MS. SWENARCHUK: I told you it was  
3 working, Mr. Chairman.

4 THE CHAIRMAN: Then Mr. Hanna is on for  
5 three days after you; is that correct?

6 MR. EDWARDS: I believe that's the case,  
7 Mr. Chairman.

8 THE CHAIRMAN: Okay, just so we have an  
9 understanding of where we are going. Very well,  
10 continue.

11 I guess this last document should be .  
12 given an exhibit number. 893.

13 Is this all one document or are you going  
14 to have one number for the whole document?

15 MS. SWENARCHUK: I think it can be one  
16 number for the whole document, Mr. Chairman.

17 THE CHAIRMAN: Thank you.

18 ---EXHIBIT NO. 893: Document package submitted by  
19 Forests for Tomorrow consisting of  
20 amendments to Red Lake Plan  
with attached new areas of concern  
since plan completed.

21 MS. SWENARCHUK: Now, again, I think it  
22 is useful for the Board to have accesss to all of this  
23 material. I don't plan to go through each prescription  
24 in detail. I'll simply indicate that these new areas  
25 of concern were attached to amendments to the Crown

1 lake plan.

2 THE CHAIRMAN: That is the Red Lake  
3 Crown; isn't it?

4 MS. SWENARCHUK: Yes. What did I say?

5 THE CHAIRMAN: Crown lake plan.

6 MS. SWENARCHUK: Oh, one of those, yes.

7 They were filed as the date indicates at  
8 the top, in January of this year, with the exception of  
9 the last one, area of concern No. 36 for which we could  
10 not identify a date.

11 MR. CASSIDY: Mr. Chairman, I have got no  
12 objection to Ms. Swenarchuk making the statement she  
13 just did. It is technically, I would think, evidence  
14 but for purposes of speeding it up, I am not going to  
15 object.

16 However, if the witnesses have any  
17 different view on that matter, I would ask that they  
18 please so indicate just so we are clear and we don't  
19 violate what is really a fundamental rule that counsel  
20 don't give evidence.

21 THE CHAIRMAN: Well, we want to be  
22 flexible--

23 MR. CASSIDY: I understand.

24 THE CHAIRMAN: --in terms of leading the  
25 witness in this area.

1                   And it goes without saying, witnesses, if  
2                   you hear something that Ms. Swenarchuk says that may  
3                   not accord with your understanding of the facts, please  
4                   speak up and interrupt at that stage.

5                   MR. CASSIDY: Thank you, Mr. Chairman.

6                   MS. SWENARCHUK: We chose to file only  
7                   this rather than the larger package that would have  
8                   been all the notices attached, Mr. Chairman.

9                   THE CHAIRMAN: We are appreciative of  
10                  that.

11                  MS. SWENARCHUK: Q. Mr. Bisschop, you  
12                  have had an opportunity to examine this package; have  
13                  you?

14                  MR. BISSCHOP: A. Yes, I have.

15                  Q. And you will agree with me in advance  
16                  that for some of these areas of concern the  
17                  prescription is again a no-cut reserve?

18                  A. That's correct.

19                  Q. Let's look at the second one of the  
20                  package which is area of concern No. 31 in which we see  
21                  at the bottom that the prescription is a modified cut.  
22                  This is again a fish habitat water quality identified  
23                  value:

24                  "Modified cut will allow maximum timber  
25                  utilization while maintaining water

1                   quality."

2                   And we have a description of the 30-metre  
3                   reserve with an alternate V-shaped cut to shoreline, no  
4                   scarification within 30 metres of the lakeshore.

5                   Another prescription apparently  
6                   considered was the 30-metre no-cut reserve, but that  
7                   was not utilized, rather the preferred alternative and  
8                   rationale is the modified cut.

9                   Now, Mr. Bisschop, in your view, is this  
10                  document -- does it provide a sufficient analysis of  
11                  the environmental impacts of alternate methods of  
12                  operations? Is this a level that the Ministry  
13                  considers sufficient detail?

14                  A. Again, I would have to say it is  
15                  insufficient.

16                  Q. And what would you expect in  
17                  addition, Mr. Bisschop?

18                  A. I think I could refer back again to  
19                  my explanation earlier that there should be a better  
20                  explanation of the -- under the subject of evaluation,  
21                  of the effects that would be incurred by the proposed  
22                  modified prescription of the 30-metre alternative of  
23                  the V-shape cut.

24                  I think in this instance they were --  
25                  they had not yet made a decision on modified versus



1       reserve when they entered this and they, through the  
2       application of the process, made the decision on the  
3       modified cut considering all of the values that they  
4       wanted to address.

5               But, yes, the evaluation is insufficient  
6       and should be more thorough in terms of the effects as  
7       described in Appendix 1.

8               MRS. KOVEN: But you certainly wouldn't  
9       know that it was insufficient from reading this form?  
10      If this is a standard form, it looks like you have  
11      about two lines to fill in, whatever description you  
12      might make.

13              MR. BISSCHOP: It's one of the  
14      difficulties I had with the approach to the form. I  
15      recognize the form now as, I believe, some regional  
16      direction that was provided in 1988 to staff in  
17      northwest region. I believe that is where the  
18      structure of the form came from, and here's the  
19      difficulty of putting a form on one page.

20              What happens is that people see two lines  
21      and they write two lines' worth of material when  
22      perhaps -- when that is not the intent of the form.

23              The intent is that these subject areas  
24      should be covered and whatever documentation is  
25      necessary should be produced and that may be in the

1 order of a couple of pages versus two lines.

2 MR. MARTEL: This is even less than what  
3 was in the 1986 plan, though; isn't it?

4 MR. BISSCHOP: I would also make that  
5 comment, yes, Mr. Martel.

6 MR. MARTEL: We are going backwards  
7 instead of forwards.

8 MR. BISSCHOP: It appears.

9 THE CHAIRMAN: What is the approach of  
10 the training sessions now, are you pushing the forms  
11 these days?

12 MR. BISSCHOP: In the most recent  
13 training session, Mr. Chairman, we have tried to  
14 emphasize the subject matters that need to be covered,  
15 and in the most recent training session we did not  
16 present a form format for people.

17 The reaction that we did get from staff  
18 at the training session is that they would very much  
19 like to see a standardized form provincially, I  
20 believe.

21 The key to it, of course, is that we  
22 would have to make sure that if we did produce a  
23 standard format that fit on one page, that we would  
24 have to get the message across that that doesn't mean  
25 that you only produce one page of description.

1 MR. MARTEL: There's no shortage of  
2 paper; is there?

3 MR. BISSCHOP: Pardon me?

4 MR. MARTEL: There's no shortage of  
5 paper; is there?

6 MR. BISSCHOP: Certainly not.

7 MR. MARTEL: Why do you want to restrict  
8 it to one page, I guess is what I am asking you, where  
9 it can't fit, you couldn't possibly fit in what's  
10 necessary to satisfy anyone?

11 MR. BISSCHOP: Well, just as in the case  
12 of the Timber Management Planning Manual where you will  
13 see a table that has a one-page format and often will  
14 end up being 20 pages.

15 Take for example Table 4.11, we have one  
16 table. That doesn't mean you try to fit everything you  
17 can on that one table, or everything that -- all of the  
18 silvicultural ground rules on that one table. It's the  
19 format that is required to document the necessary  
20 documentation.

21 Similarly, this one page is intended to  
22 be the documentation requirements and planners are  
23 expected to produce the necessary documentation to  
24 support a decision, and if that means making this page  
25 in the end four or five pages, that is what is

1 necessary.

2 MR. MARTEL: Did that occur?

3 MR. BISSCHOP: In this instance,  
4 obviously it didn't occur. I might add that I don't  
5 believe that the people in Red Lake District in 1988  
6 were part of the training sessions.

7 MR. GROVES: I can maybe add some light  
8 to that particular subject. The form you are seeing  
9 was one that was used in a plan that was approved in  
10 April 1st, '88. That same form was also used as an  
11 example of what not to follow at the training session  
12 that the Red Lake staff who are now working on the Red  
13 Lake Crown received in June of 1989.

14 THE CHAIRMAN: Thank you.

15 MR. GROVES: So we are learning.

16 MS. SWENARCHUK: Q. Well, Mr. Bisschop,  
17 I have a concern with this that goes far beyond the  
18 documentation and it's a concern that applies as well  
19 to what we see in the area of concern planning in the  
20 Red Lake plan; and, that is, that for those areas of  
21 concern, let's just look at the second page No. 31, in  
22 which some form of modified prescription is the  
23 prescription for operations in the area, I do not see  
24 described on that page the environmental impacts of  
25 various approaches to operations such that we can be



1       sure that this modified cut will, in fact, protect the  
2       environment from the impacts that, in my estimation,  
3       should have been identified with respect to each  
4       alternative.

5               MR. BISSCHOP:  A.  And I agree with you  
6       entirely and I thought that that was what I was trying  
7       to get across in terms of what I saw as lacking.

8               MS. SWENARCHUK:  I just have one last  
9       question, Mr. Chairman.

10              Q.  Now, Mr. Multamaki and Mr. Bisschop,  
11       when we began this examination of the area of concern  
12       planning process and non-timber value protection in the  
13       Red Lake Plan last week, if you will recall, we  
14       referred back to the objectives for the Red Lake Plan  
15       which are stated in your excerpts from the plan and  
16       talked about the optimization of benefits.

17              Perhaps we should take another look at  
18       that.  Mr. Multamaki, I don't recall the page  
19       reference, would you have it?

20              I believe it's page 32 of Book 1 in the  
21       plan excerpts.  Yes, the integrated resource management  
22       objective, I will just read it:

23              "...is to ensure the coordination of  
24       timber management activities so that  
25       long-term benefits are optimized and

1 conflicts between other programs are  
2 minimized."

3 So we are talking about optimization of  
4 IRM benefits. And I want to refer to you now a  
5 statement by Dr. Baskerville with regard to the plans  
6 he examined and exactly this issue. And at page 73 of  
7 his report he says the following --

8 MR. FREIDIN: I'm sorry, could you  
9 just...

10 MS. SWENARCHUK: Exhibit 16, page 73.

11 MR. HUFF: (handed)

12 THE CHAIRMAN: We have it here, thanks.

13 MS. SWENARCHUK: Q. And the second  
14 paragraph of the page reads as follows:

15 "There is no reason to expect that  
16 optimum value is being achieved from the  
17 Crown forests despite the frequent use of  
18 the word in planning documents. It would  
19 be possible to use an optimization  
20 approach, but it would be a drastic  
21 departure from the current scheme of  
22 informal qualitative judgments. It would  
23 not be necessary to convert everything or  
24 anything to dollar values to do the job,  
25 but it would require an explicitly

1 quantitative statement of all the  
2 connections between the various benefit  
3 flows. In other words, it would require  
4 explicit statements of such things as how  
5 a particular measure of harvesting  
6 affects a particular measure of wildlife  
7 habitat as opposed to the broad trivial  
8 statement that there is an influence."

9 Now, he said that with regard to the  
10 plans that he examined. And I suggest to you, Mr.  
11 Bisschop, that the same criticism applies to the Red  
12 Lake Crown Management Plan?

13 MR. BISSCHOP: A. As I understand Dr.  
14 Baskerville's use of the term optimization, I  
15 understand it to be used in a modeling sense and, in  
16 that sense, he attaches quantitative measures in  
17 optimization.

18 I think there is no question that in our  
19 use of the word optimization we are talking about, I  
20 think, what is being called colloquially in the  
21 hearings a win/win situation for everyone involved,  
22 optimizing the benefits to, in the case of timber, to  
23 timber management objectives as well as the objectives  
24 of other interested parties and users and to ensure  
25 that conflicts are minimized.

1                   And what we attempt to do through  
2           case-by-case analysis, through the area of concern  
3           process, is to come to that balance of optimizing, in  
4           our general use of the word optimize, and minimization  
5           of effects and conflicts.

6                   Q.   But, Mr. Bisschop, if there is no  
7           wildlife strategy overall outlined in the plan and no  
8           assessment at all of the impacts of timber operations  
9           here on wildlife overall, for example, surely it's not  
10          possible for anyone to judge whether this plan and the  
11          approach to operations chosen in it, in fact, optimizes  
12          the maximum possible benefits to wildlife on this unit;  
13          isn't that correct?

14                  A.   Well, in the sense that through our  
15          application of guidelines, which have received broad  
16          review by interested parties, and the application of  
17          those guidelines in the way that has been outlined  
18          through the planning process, we believe that through  
19          the case-by-case determination of a prescription that  
20          fits, that that level of optimization, as we deal with  
21          it, is achieved. Explicitly in the plan --

22                  Q.   Well, I guess you don't agree with  
23          the statement on the page --

24                  MS. SWENARCHUK:   Yes, Mr. Freidin?

25                  MR. FREIDIN:   Well, Mr. Chairman, we have



1       been around this horn starting with Panel No. 1 and Mr.  
2       Douglas specifically indicated what the difference was  
3       in terms of how the Ministry uses the word optimization  
4       and how he understands what Dr. Baskerville means, and  
5       Dr. Baskerville will be here and we will find out what  
6       he does mean by it and people can question him as to  
7       that meaning and what he meant by this statement.

8                       I don't see where we are going. Let's  
9       wait for Dr. Baskerville.

10                      MS. SWENARCHUK: Well, Dr. Baskerville  
11       has stated in a previous paragraph exactly our  
12       assessment of optimization and it's very brief and I  
13       want to put it to Mr. Bisschop.

14                      MR. FREIDIN: Well, why don't you just...

15                      THE CHAIRMAN: Well, just a moment, Mr.  
16       Freidin. I think it has been explained, Ms.  
17       Swenarchuk, a number of times that the Ministry does  
18       not use the concept of optimization in the same sense  
19       that Dr. Baskerville does.

20                      Now, what Dr. Baskerville means precisely  
21       in terms of the way he articulated it in Exhibit 16, I  
22       think we should await until Dr. Baskerville can be  
23       questioned directly, so that any implications of his  
24       words can be clarified by the person himself that wrote  
25       them. That is No. 1.

1                   No. 2, Mr. Bisschop has just indicated -  
2                   at least this is what the Board understood - that  
3                   although there is not a specific reference in the plans  
4                   to overall, for example, wildlife policy, those overall  
5                   objectives can be inferred from previously approved  
6                   provincial policies which may be contained in other  
7                   documents.

8                   Is that essentially the gist of what you  
9                   have said?

10                  MR. BISSCHOP: Again, I wish I could have  
11                  said it that clearly, Mr. Chairman. That's --

12                  THE CHAIRMAN: And that they don't appear  
13                  necessarily within the plan. But using the Ministry's  
14                  view of optimization, their win/win concept, if that is  
15                  the way they want to put it, it is different from the  
16                  way Dr. Baskerville uses it.

17                  So beyond clarifying that, and I think  
18                  you should be at a position at this point of realizing  
19                  that the Ministry does not utilize optimization in the  
20                  same context that Dr. Baskerville, where can you go  
21                  with this line of questioning?

22                  MS. SWENARCHUK: Well, I think where we  
23                  will go now that we have it clearly stated that that is  
24                  where we are to look for optimization of benefits, is  
25                  that we will go into argument with that position at the

1 appropriate time.

2 That concludes my questioning. Mr.  
3 Lindgren has some additional questions. I assume that  
4 you will want to leave that until tomorrow.

5 THE CHAIRMAN: I think we will have  
6 sufficient time to leave that until tomorrow, finish  
7 off with the industry's examination and then go on to  
8 Mr. Edward's examination as well.

9 We will adjourn until 8:30 tomorrow  
10 morning.

11 Thank you.

12 ---Whereupon the hearing adjourned at 5:30 p.m., to be  
13 reconvened on Thursday, October 12th, 1989,  
commencing at 8:30 a.m.

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